

Creating Great Compliance Training in a Digital World

Resource Guide 1—Selling Compliance

By Michael R. Levin

I work in Sales. I have worked in Sales since the moment I became a compliance and ethics professional 18 years ago. If you are reading this and you work in compliance and ethics, you work in Sales, too (even if you haven't realized it yet). Why does it matter to look at our profession through this lens? Because you have to know to whom you are selling, you have to know what you're selling, and above all else, you have to know how to sell it. Without a keen understanding of the answers to these questions, you cannot be truly successful in this field.

Here are some observations from nearly two decades in the field:

Know your audience.

To whom are we selling? There are many audiences. We sell to our company's "governing authority" and "high-level personnel," defined by the U.S. Sentencing Guidelines^[1] as the Board of Directors (or the highest-level governing body of the organization) and the CEO and his or her direct reports (those individuals who have substantial control over the organization or who have a substantial role in the making of policy within the organization).

We sell to middle management and front-line supervisors—those empowered to translate corporate strategy and operationalize it for the enterprise. We sell to the rank and file employees on factory floors, in customer-relationship roles, in Finance, Information Technology, Audit, Risk Management, and in every corner of our companies—the often unsung masses whose performance is essential for business to succeed. The needs of these groups differ, and to be impactful we need to be aware of what we have to sell to them.

Know your product.

What are we selling? If there were a Compliance and Ethics 101 course, it would teach us that employees cannot adhere to rules and expectations that have not been clearly set. When things go wrong—and things always go wrong—we wonder how an employee could have done *that*, or said *that*. It's our job to know what "that" is, to set the expectations around that, to ensure our audiences understand how to manage that, and to create an environment where employees can meet those expectations.

Determining the "that" should not be complicated. Ask "What are the rules that apply to your business?" and create an obligations library. As compliance professionals, we can't do our jobs in a vacuum; we must work with business stakeholders and our partners in the Legal and Enterprise Risk departments to document the panoply of rules and requirements that govern our business. Next, create a regulatory change management process to keep that obligations library current—because change happens whether we are ready for it or not. I have seen far too many compliance and ethics professionals myopically selling one risk at the expense of a more important one, and fail to see the new risks on the horizon.

To know what we are selling we must also conduct risk assessments. Risk assessments are required elements of the U.S. Sentencing Guidelines, but more importantly they also allow us to rank what we must sell in order of priority. For example, attend any compliance and ethics conference and you'll note that corruption and how to

build a state-of-the-art compliance program to combat it will be a hot topic. If you work for a company that only does business in the United States and has no non-U.S. suppliers or customers, you probably should not be selling an anti-corruption compliance program as your flagship initiative. You'll need to focus on your company's key compliance risk areas.

Beyond the laws, regulations, and company policies, compliance and ethics programs sell corporate culture. We sell leadership expectations. We sell behavioral expectations for proper business conduct. We translate the tone from the top. This begins with the company values. Why has your company established the core values that it has? We must understand the history behind our corporate value statements and how we got to this place. Have there been scandals in your company's past or in your industry? How has your organization changed to address those challenging times? This perspective will aid the compliance and ethics professional to shape the product you're selling.

Know how to sell it.

You have catalogued your product—the laws, rules, regulations, leadership expectations, values, and culture that are critical to your business. Now comes the challenging and creative part. How do you set the expectations? How do you sell it?

You sell it in the values. In my company, I “own” the corporate values, the actual words. My team looks at the business environment and works closely with the CEO to determine what those values should be and how they should be phrased to make an impact on the enterprise and set the right tone and business conduct expectations. We work closely with Human Resources leadership when reviewing and updating the corporate values, with a goal to embed them broadly in enterprise resources—internal and external web pages, recruiting materials, and most critically in management messaging.

For as long as I've been working in this profession, “tone from the top” has been a priority. Ensuring the CEO and senior executives “walk the talk” with regard to corporate values and business conduct expectations. Since around 2010, we started to hear about “tone from the middle.” I define the “middle” as anyone in your company who manages at least one person (a direct report) or a project team (regardless of reporting relationship). These are the people from whom the general employee population actually takes their cues for how to conduct themselves at work. The job of the compliance and ethics professional is to sell to the top and the middle the benefit of setting a tone aligned to the corporate values; benefits like improved morale, lack of business interruption, lower attrition, higher retention rates, ease of recruitment, and better business results. In the end, it's about being a good supervisor.

You sell it in policies and procedures. Of course, not all the products you're selling are values-based. Rules must set employee expectations. From the obligations library and risk assessment discussed earlier, you will be creating policies and procedures. When thinking about how to sell them, the best advice I can offer is to write plainly. Short simple prose without internal cross-references is preferred. There are many lawyers in this profession—this author included—and if your policies include words like “heretofore,” “appurtenant,” or anything in Latin, you're not selling well. Furthermore, strive to accomplish your policy objectives in as few policies as possible.

You sell it in training courses. Perhaps the one sales technique our profession focuses on most is compliance and ethics training. It's an element of an effective program under the U.S. Sentencing Guidelines. It's a preventative control that should clearly set expectations around a given topic—the Code of Conduct, information security and privacy, antitrust, anti-corruption, harassment and discrimination, and countless others.

Your training courses must be reflective of your corporate culture. And you must remember that while you wake

up every morning thinking about compliance and ethics, for most employees it's largely an afterthought. Training should be as short as possible to enable employees to get back to their jobs. Like policies and procedures, training should be written in plain language. It should explain the salient points in an interesting and impactful way, and then be done. It should explain how compliance is helpful and the outcome of noncompliance.

Above all, compliance and ethics training cannot be one-size-fits-all. There are unique needs from diverse employee audiences. You will not train the board of directors the same way you would train a sales team or line workers in a factory. You will not train employees in one country the same way you would train on the opposite side of the world (including language/dialect issues). Not only must the training methods differ, but the training content should differ—even if you're training different employee types on the same subject. Code of conduct examples you use for an executive leadership team will likely resonate differently for front-line workers, so make your examples relevant. And the method of training may also differ by audience.

Today, training may be live and in-person, live by webinar or Skype, instructor-led on video, computer-based, mobile-device enabled, text-only, audio and video, animated, or paper-based and printed. New training vehicles are being developed constantly. Be familiar with what's available, but don't lose sight of what's culturally impactful for your organization. I have found that a reasonably short and memorable course is a great baseline to get similarly-situated employees familiar with a concept, but don't believe that once you've conducted a training initiative, you've completed your obligation.

You sell it in awareness communications. What do you do before you launch a new policy and before you launch your next training course? You communicate to employees that it's coming. You set their expectation that something new is on the horizon. Your awareness communications are the glue that binds your entire program.

Compliance awareness communications create a buzz. They allow you to introduce information to your employees and ensure they don't have an opportunity to forget it. When employees take a training course that was well-designed and memorable, the impact will be a reduction in risk that is highest immediately after completing the course. Over time as the employee becomes re-entrenched in his or her job routine, memory of the course and the impact on the employee's behavior wanes until the course is a faint memory. The risk that the course sought to mitigate slowly returns until there is very little impact from the training event. Compliance and ethics awareness communications fill this gap to keep the message present in the employee's mind. These messages should be persistently sent and repeat a consistent message over multiple forms of media.

Like policies and training, awareness communications should use plain language. Keep it simple and don't make the employee think too much. Over the years, I have used newsletters (with differently focused messages tailored to different audiences), email campaigns, posters, mailings, digital displays, intranet postings, blogs, games, CSI-like investigation stories, art contests, calendars, short animated videos, and quick-reference charts to keep employees engaged. I have engaged stakeholders with common goals—Human Resources, Employment Law and Employee Relations—to deliver coordinated or shared messages. By leveraging other divisions within your company, the impact of your compliance and ethics team can exponentially increase.

Final thoughts.

Compliance and ethics professionals are first and foremost influencers. We need to build strong relationships at every level of the organization to make a difference. We must influence the senior-most executives to embed the values in their own messaging. We must influence middle managers to translate compliance expectations in a way that their individual contributor employees can digest and embody. Furthermore, we must integrate all these concepts into our overall compliance and ethics plan. The policies and procedures are translated by training supported by ongoing awareness communications which drives the values supporting business conduct

expectations and establishing the corporate culture. No one component will succeed without a careful integration of all components.

Compliance is not an event, it's a journey. I remember saying this to a client in 2001 when I first began compliance consulting. It is still true today. Back then, Enron, WorldCom and the other corporate catastrophes that fueled this profession hadn't yet occurred. There were few chief compliance officers as that role grew as a reaction to the then-impending scandals. Compliance and ethics programs must have carefully orchestrated plans that weave together your audience, what you're selling, and how you're selling it.

We are selling an ideal. The ideal that if everyone performs their role the right way, business objectives will be accomplished effectively and efficiently, with no distractions or interruptions—ethically and in accordance with laws and regulations. But the world, and indeed the business world, is not an ideal place. A practical approach is needed. A compliance and ethics professional who understands how to sell will be very successful.

¹ U.S. Sentencing Guidelines Manual § 8B2(c) (U.S. Sentencing Comm'n 2004).

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