



Compliance: Old Wine in New Wineskins?

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Personnel management has long been marked by a variety of administrative issues. Unfortunately, this has contributed to HR's reputation as a purely administrative function. The processing of payroll, maintenance of employee data, administration of variable compensation, and processing of data and documents in electronic archives are all subject to strict requirements in terms of data protection, data security, privacy and compliance. This remains true whether the transactions are performed by HR itself or are outsourced, for financial reasons, to a shared services center.

What exactly does "compliance" mean for HR?

Compliance means applying laws and regulations to the company and especially to employees. It includes the organizational measures designed to bring compliance requirements to the attention of employees and those measures designed to encourage employees to remain consistently compliant. Compliance is not new. Specifically, in commercial or financial functions, these requirements have a long history. In recent years, however, cases of corruption and blackmailing have revived the discussion. This has forced companies to put more emphasis on the issues and sometimes even develop a dedicated organizational function to ensure compliance.

What is the role for HR in this?

For all administrative matters (and maybe not only the administrative ones), HR has to:

- Stay up-to-date on all laws and regulations,
- Create the appropriate internal regulatory framework for the company, and
- Ensure adherence to both of the above.

Further, HR has to ensure that compliance is an integral part of the work relationship at the individual and

group level. This is true, for instance, when defining management authority in departments such as Finance, R&D, etc. It is also true when designing contractual agreements with individual employees, or when reaching group agreements with a works council (a more European consideration). It also makes sense to seek and document the works council's agreement to certain rules defined at the individual level, but falling within areas that require the works council's participation.

In assessing compliance requirements, a risk analysis should be undertaken. The risk analysis has to focus on *general risks*, such as employee protection, anti-discrimination, corruption, confidentiality, data security and tax laws. It also needs to assess specific risks, such as anti-trust requirements, green standards, and trade and procurement laws.

After performing an exhaustive risk analysis and defining the pertinent legal requirements, HR's role will be to define the "current state" of the company. This means determining which rules and implementation measures are already in place. In doing so, the following issues will need to be considered:

- Terms of the existing contracts;
- Instructions and internal company rules (including, for example, data protection standards or codes of conduct pertaining to business gifts);
- Appointments of accountable employees such as data protection officers;
- Requirements for the "four-eyes" principle's (dual control of sensitive processes) two responsible parties; ultimate legal protection;
- Contract management guidelines; and
- Requirements for employee rotations in sensitive areas.

Human Resources can then determine the "future state." This implies defining the need for action and compiling optimal rules and implementation measures. It is strongly recommended that HR include in the process any other departments that have expertise in the field, including Legal. In Europe, the works council should be included in the design of a company-specific strategy. This includes setting goals and designing a road map, both of which will subsequently need to be communicated and implemented by executive management.

Human Resources is the department which remains in close contact with every employee at every stage of the employee life cycle, starting from recruitment (screening applicants based on compatibility with company ethics), through hiring (references and background checks), to employee development (training to ensure that compliance rules are known and understood) and termination (loyalty and non-compete obligations).

Human Resources' role as the designer and guardian of the business culture and, hence, as a strategic business partner, is also important. Human Resources should be included in the early stages of design and management of compliance processes. This is important primarily because HR has the appropriate employee management tools to maintain and monitor compliance with company rules. These tools include, for example, goal setting, incentives and profit sharing. However, using these tools presupposes that they are defined and communicated by the executive management team before HR shares them in detail with employees. The consequences of failing to obey the rules should also be clearly communicated, and the rules themselves should regularly be checked for applicability, adherence and the need for updating. Having a compliance officer can be of great benefit in this work.

It is strongly recommended that organizations define relevant, company-wide compliance programs and rules along with comprehensive and clear communication programs. This communication can be accomplished through informational meetings, intranet messages, coaching or one-on-one discussions involving HR and/or managers.

A Key Role for Managers

Ensuring adherence to rules and regulations is clearly a leadership responsibility that has to come directly from executive management, and integrity is a crucial factor for success. Demonstrating a culture of responsibility and role modeling is indispensable. Front-line managers are responsible for the consistency and correctness of their actions when interactive with both executive management and their fellow employees. This responsibility can't and shouldn't be stripped from them by well-intended compliance rules. Empowerment and leadership still play important roles here. The potential success of a company that results from values-driven management should not be undermined by a bureaucratic monitoring process. Hence, it is important to keep a sense of proportion when designing and implementing compliance rules.

I personally recommend defining a clear and short set of rules with personal consequences in case of non-adherence. I believe this is generally more effective than a cumbersome control process that would constrict entrepreneurial and innovative thinking and acting.

Moral and ethical values are also an essential element of driving the business and, thus, must be reflected in all aspects of strategic planning and general management. Besides the modeling of key competencies for managers, executive leadership must also issue clear communications on this subject. Managers are the ones who will deliver the decisions to the employees and will have to face their questions. That's why the visible backing of the executive leadership team is a prerequisite for both successful implementation of compliance requirements and a thriving values system. Quality in leadership is also a prerequi-

site for adherence to compliance rules. When the executive management introduces a company-wide leadership program to strengthen managerial skills, many compliance requirements are automatically met. If, on the other hand, compliance management has a separate existence as purely a "paper-pushing" process on which people report once a year, it merely becomes a frustration for everyone involved.

Employees are at the Heart of Compliance

For many employees, compliance is a topic that induces insecurity, skepticism and reluctance. This attitude, marked by reticence, is often caused by lack of information and insufficient training on the attitudes and practices required by the company and its compliance regulations. Many tend to believe that compliance is an accepted requirement of all employees and that adherence is unquestioned. However, in order to be accepted, every employee must understand why the compliance rules exist and what each of them requires. All employees should have the opportunity to discuss them with their managers and/or HR, and should also be informed in a complete and timely manner about the rewards of adherence and the consequences of non-adherence.

All employees should be encouraged to question their own work behavior and determine if their actions are in the interests of the company, if they are in line with the company's values and their own, and if they are ethically and morally acceptable. Last but not least, employees must decide if they are willing to take responsibility for their own decisions and actions. If all of these questions can be answered positively by every employee, the organization may truly be characterized as having a culture of compliance.

About the Author

Ursula Christina Fellberg, Ph.D., studied Business Administration at the Technical University (TU) Berlin. She started her career in various research positions in universities and institutes in Berlin and Munich, Germany. Dr. Fellberg made her way into the private business world when she was hired by Siemens to lead various departments with company-wide HR responsibilities. Her responsibilities included global reporting, process-oriented HR, change management, global rollouts of HR systems and e-government solutions. Her broad experience from her time at Siemens, as well as her strategic consulting engagement in the public and private sectors, make Dr. Fellberg a well-respected advisor to top executives and a regular speaker at HR events. She is now an independent consultant with her consulting firm UCF-StrategieBeraterin in Munich. Her areas of expertise include HR transformation, leadership (strategy, guidelines, and employee psychology), HCM and business values (quantitative and qualitative). She can be reached at ucfell@mac.com.