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Ensuring Confidence in Your

Ethics Training Program

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Taking the Snooze Factor Out of Ethics Education

Companies such as BearingPoint and Marsh and McLennan are coming up with some unique ways to engage employees in corporate compliance and ethics training

by Jaclyn Jaeger

Most compliance and ethics officers are fairly confident about the content of their ethics training programs. It's delivering it in a way that doesn't put employees to sleep that is the hard part.

To meet that challenge, more companies are looking to Hollywood for inspiration. They are creating their own ethics movies and company-tailored television series to capture the attention of their audience. Others are seeking help to jazz up ethics training in unique places.

Steve Johnston, president of Second City Communications, says more than 100 corporate clients have worked with the comedy troupe's business offshoot, including using its Real BizShorts—short, funny videos that incorporate humor into ethics and compliance training. "These are mostly Fortune 1000 companies, but also a lot of mid-cap companies."

The idea behind RealBiz Shorts is not so much to train people on ethics, but to engage employees to focus on already-existing issues in a catchy way, Johnston explains. "What we've heard consistently is that people get it. Everybody likes to laugh, and they appreciate the fresh approach."

Companies have used videos and other materials to train employees on ethics and compliance for decades. But many are tossing out the dry, canned programs that cause employees' eyes to glaze over. When Joel Katz assumed the chief ethics officer role at CA Technologies in April 2009, he says the employees complained about the training. "One of the things I was hearing from employees was that a lot of the compliance awareness training that preceded me was very dry," he says. "It was not engaging."

In the process of brainstorming how to make CA's compliance training stick, "one of the first things people talked about was humor," says Katz. "We talked about different scenarios we could possibly do, or which subjects we wanted to tackle first and how we could make them funny."

That's how the idea came about to create a video. A film agency then provided an actor and helped write the scripts for the first two films, which focused on the subjects of insider trading, and confidentiality and competitive information. A YouTube sensation among employees, the main character, Griffin Peabody, has since been incorporated into much of CA's training.

Following the first two videos, CA began to play a much more hands-on role, including conducting casting calls within the company to get employees involved, which

sparked further interest, says Katz. "When they learned that their peers had a big role in the production, more and more people wanted to watch it," he says.

"I get hundreds of e-mails from employees and people stopping me in the hall to say how much they like the video, how fun it is, and that it's the best training they've ever watched," Katz adds.

BearingPoint's Story

When Russ Berland, former chief compliance officer of management and technology consulting firm BearingPoint, set out to redesign the company's ethics and compliance training program he also wanted to use an unorthodox approach. "We were looking for something that would be beyond the boring, check-the-box kind of experience," he explains.

The end result was a television sitcom modeled after The Office that focuses on a fictional consulting company called Aggrieva. Berland says the goal was to make it feel like a TV series of 5-9 minute episodes, each building upon the other. "We didn't need 20 minutes of video to get three or four points across," he says.

"The film is all about reaching people's hearts. Fundamentally, it's about emphasizing the work that we do as a company."

Scott Gilbert, Chief Risk and Compliance Officer, Marsh & McLennan Companies

Berland signed on filmmaker Marc Havener, of film production company Resonate Pictures, and set about writing the script. BearingPoint shot an entire season of 10 short episodes over the course of a weekend. Each episode incorporated such issues as conflicts of interest, diversity, and harassment.

"People loved the training, they actually raved about it," says Berland. Prior to the official release of each episode every Monday, employees quickly figured out that the company would post a new episode on its staging server the preceding Friday and would start tracking them down. As a result, thousands of employees would watch the videos before they were even released.

The series changed the way employees talked about compliance. "You really could see the culture changing as a result of the training," says Berland. Employees began to express greater awareness of the code of conduct and less concern about fear of retaliation, he says.

Katz says he's noticed similar results at CA. In the weeks and months following the awareness videos, employees invariably would ask a lot more questions, "which is always a good thing," he says.

"You can reach and engage an audience in short durations over a course of a year, as opposed to just going through the

big-bang certification process,” stresses Johnston. “That’s where a lot of other video formats fall short, because they tend to be too long.”

Engaging Emotions

That doesn’t mean longer training films can’t work. Global professional services firm Marsh & McLennan has had plenty of success with a training documentary it produced that runs a full 50 minutes. It’s resonating with people in a very powerful, emotional way,” says Scott Gilbert, chief risk and compliance officer of Marsh & McLennan Companies.

Threaded throughout the film in a very subtle way are really specific messages about such issues as insider trading, contractual limitations of liability, and the importance of individual responsibility. “It conveys this underlying message that each of our actions has the potential to enhance—or take away from—the quality, professionalism, and reputation of the corporation,” says David Nadler, vice chairman of Marsh & McLennan.

“The film is all about reaching people’s hearts,” explains Gilbert. “Fundamentally, it’s about emphasizing the work that we do as a company.”

The Chilean earthquake occurred in the middle of making the film, and Marsh decided to incorporate it into the movie. Being able to film the natural disaster in real-time helped drive home the message that the difference between

having insurance in place or not “really stands between recovery and disaster for clients,” says Gilbert.



Gilbert

The movie helped Marsh & McLennan convey the idea that the work employees do is important, and each individual employee has a responsibility to behave in an ethical way, “I thought it was very important to bring out a new Code of Conduct for the firm, and to really make that come alive to people in the way that

we communicate about it,” says Gilbert.

Many perceived the old Code of Conduct as too “U.S.-centric,” explains Gilbert, so one aim of the new Code was to give it global relevance, “and the film has hugely contributed to that.” Subtitled in 12 different languages, the film spotlights the daily experiences of employees in London, Santiago, Tokyo, Dubai, and New York.

Gilbert and Nadler say that response to the film has been overwhelming. In fact, a number of employees enjoyed the film so much they’ve requested copies to take home and show their families.

Gilbert credits a large part of the film’s success to the magic of cinematography, which director, Ryan Fenson-Hood, used “masterfully,” he says. In addition to carefully thought-out and deliberate camera angles and editing, all the music was “tailored exclusively to the action of the film to make sure visual imagery was aligned with music, which creates an emotional impact on the audience,” he says.

Supplemental Training

Compliance and ethics officers stress that the ethics videos aren’t the only form of training that they use, but rather part of an integrated strategy. At Marsh & McLennan, for example, the documentary is followed by guided discussions about how each issue applies to employees’ daily work activities.

In addition, employees must certify through an online test that they understand the Code of Conduct, says Nadler. “The use of face-to-face training in combination with the innovative use of media is important.”

BearingPoint took a similar approach. Each episode would be followed up by a senior-level executive within the company to discuss relevant corporate policies and values and what to do in such real-life situations at BearingPoint. “The videos were just part of the instruction,” says Berland. “This was just spotlighting the issue and showing what it looks like in a funny way.”

At CA, employees must take certain compliance training courses throughout the year, including online and live training. One of last year’s goals was for every in-house lawyer to conduct at least three training sessions on a compliance subject in their local language. “Every single one of our lawyers met that challenge,” says Katz.

Lights, Camera, Ethics!

Compliance and ethics officers conclude that what effective training really boils down to is relating to employees on a personal level. “To have an effective compliance program, you need to tailor it to your industry and your employee population so that you can make it relevant, interesting, and useful to your employees,” says Katz. “If you can give them something that’s memorable and engaging, they will walk away and remember the lessons much better.”

“You want people to be able to identify with it. If they identify with it, you engage their emotions,” says Berland. “You’ll start to see that people will not only want to take the training, but absorb and apply it and talk about it.”

In the process of writing the scripts and designing the program, Dave Farrell, chief compliance officer of Yahoo says he “cannot overstate the importance” of having employees from all the various departments and functions as part of the test audience, “because that will give you a pretty good gauge of how it’s going to be received when you roll it out,” he says.

“The challenge with videos is keeping them fresh,” says Farrell, “because things change so much and so fast that almost as soon as you produce one and get it out the door, the world has moved on in a lot of ways.”

Audiences today are “very sophisticated and very used to seeing high-quality media,” says Nadler. An off-the-shelf training approach is not going to resonate with them.

“The bottom line is that you try to find a way to reach the employees on their level and things they’re receptive to,” Farrell adds. “You hope they come out of it and say, ‘that was really worthwhile.’” ■

Changing Expectations for Compliance Training

By NYSE Governance Services

To consider a compliance program successful (or even satisfactory), ongoing training must be an integral component of the program. However, merely its inclusion is not enough; the training must be effective. But how do you prove effectiveness and measure risk avoidance as regulatory scrutiny and business pressures on organizations continue to rise? As expectations increase, keeping up can be challenging.

Strategy

Many organizations judge training programs with a “check the box” approach because effective measurement hasn’t been an easy task within most compliance programs. As long as a training program exists and employees participate, it is thought to be satisfactory. Completion records, policy attestations, and employee satisfaction surveys are relied on as measurement and proof of success. However, completion is not a gauge of effectiveness and many companies consider this approach outdated and insufficient.

The current regulatory focus on anti-corruption training demonstrates this. Representatives from the Department of Justice (DOJ) and Securities and Exchange Commission (SEC) are clearly signaling that having employees sign a certification that they took training

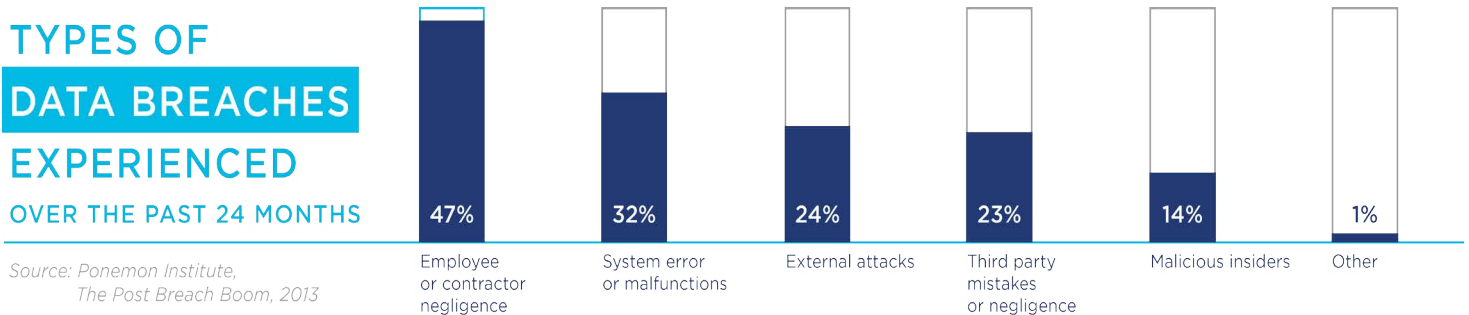
is no longer sufficient. The regulators want companies to demonstrate the effectiveness of their anti-corruption training...and this is just the beginning. Take, for example, cybersecurity. Nearly half of all data breaches are a result of employee or contractor negligence. According to NYSE Governance Services, 45% of employee choices on protecting company data expose the organization to risk...and these are, in most cases, trainable skills.

A strategic, data-driven approach to designing compliance training programs sets the foundation for evaluating training effectiveness. This begins with promoting training with engaging content (i.e., through video) that draws learners in to the training and will pay dividends in improved outcomes on the back end. Where compliance analytics used to consist of course completions, hotline data, and incident reports, they only provide a fractional amount of insight. The next generation of compliance training provides robust, insightful data that measures the true efficacy of training efforts and also identifies risk hot spots to address and mitigate risk before it becomes a larger issue. A data-driven approach to training is a disciplined effort that produces fundamental decisions and actions that shape and guide

A strategic, data-driven approach to designing compliance training programs sets the foundation for evaluating training effectiveness.

what a training program is, who it serves, what it does, and why it does it, all with a focus on the future. Organizations that build a measureable, effective training program set priorities, focus

TYPES OF DATA BREACHES EXPERIENCED OVER THE PAST 24 MONTHS



Source: Ponemon Institute, The Post Breach Boom, 2013



energy and resources, ensure that employees and stakeholders are working toward common goals, establish agreement around intended outcomes/results, and assess and adjust the organization’s direction in response to a changing environment.

A data-driven approach to planning a training program considers not only where an organization is going and the actions needed to make progress, but also how it will know if it is successful. By using a strategic, data-driven approach, organizations can best plan, execute, and measure their training programs.

Planning

Strategic planning for training includes determining what topics should be included in training to satisfy the needs of the organization. Those needs are likely some combination of:

- » Instructing on doing business in the desired manner (culture, revenue, and behavior)
- » Reducing risks
- » Driving behavioral change
- » Satisfying regulatory requirements

Often regulatory requirements or focus mandate specific training topics. However, reputational risk, operational risk, new or evolving risks, and business risks dictate other topics

If training is too generic, it becomes irrelevant. The more training is directed to a specific audience and their specific needs, the more relevant it is.

and the content within all training. Since the risks organizations face continue to grow in scale and complexity, identifying risk areas to direct the priority and focus of training is critical.

Companies that take a proactive approach use data to help with this assessment. They use quantifiable results or analytics surrounding past training or assessments to drive plans. Taking a reactive approach to identify gaps and risks by using compliance failings, anecdotal evidence, or guessing is viewed unfavorably both internally within organizations and externally.

Executing

Once the topics and content for inclusion in training is determined, attention shifts to targeting training to the audience and making it engaging. In addition to mitigating risks, targeted and engaging training helps organizations:

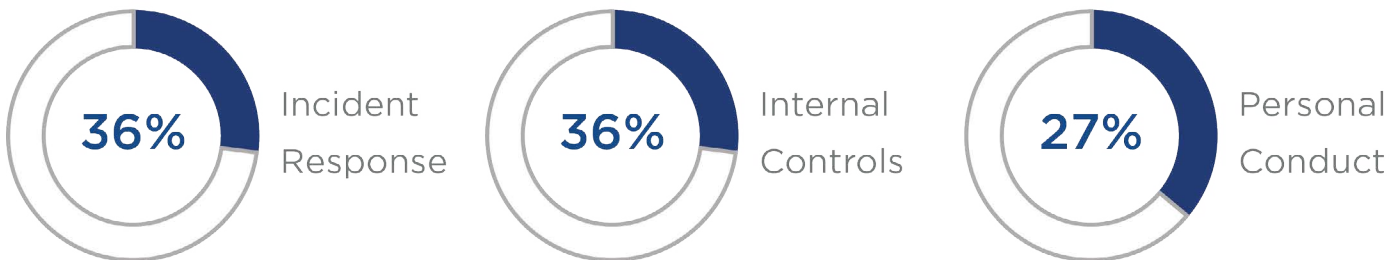
ing it engaging. In addition to mitigating risks, targeted and engaging training helps organizations:

- » Increase learner retention
- » Change behavior
- » Reduce training fatigue and cognitive overload

If training is too generic, it becomes irrelevant. The more training is directed to a specific audience and their specific needs, the more relevant it is. Companies need to understand their audience, know as much as possible about them, and use engaging content and awareness tools that generate interest before and after training to maximize engagement, increase applicability, and raise total education ROI.

A NYSE PULSE CHECK ON EMPLOYEE ACTIONS IN CYBERSECURITY

Employee actions that expose their company to risk:



Rather than doing the same training year after year, provide learners who demonstrate proficiency with more advanced or possibly abbreviated training. Alternatively, an organization should know which employees have a lower proficiency in order to adequately address learning and knowledge gaps. Having this information helps an organization focus on areas that employees either don't know or don't understand the practical application.

There are multiple ways to make training more compelling and engaging, reducing the tedious nature of traditional compliance training. Scenario-based training utilizes storytelling to captivate an audience. By allowing learners to see how information and decisions fit into real-world application, it provides practical examples of how day-to-day choices have impact.

Requiring learners to make decisions in scenario-based training enables them to actively participate in gaining and applying knowledge. This approach is more engaging than presenting large quantities of information and expecting learners to absorb content rather than applying knowledge. Another method to increase engagement is appealing to the competitive nature of people by providing consequences. Increase motivation by scoring or benchmarking training participants.

Measuring

A strategic approach to training evaluates its effectiveness, uses the results to make necessary changes, and strengthens the overall program.

In the most general sense, evaluating training programs using similar standards to compliance programs is worthwhile. This often includes determining whether the program is:

- » Tailored rather than a one size fits all
- » Targeted to roles and responsibilities of learners and proficiency levels

- » Customized to complement the existing business operations
- » Reviewed regularly to see if it's working
- » Focused on learner engagement and knowledge retention
- » Changed if it is not working
 - » Addressing evolving risks

With a useful measurement system, companies can gauge proficiency, map training to identified knowledge gaps, and measure change year over year.

Measuring these criteria and demonstrating results can be challenging, but it is not nearly as difficult as it once was. Many companies are moving away from subjective appraisals and, instead, are using more objective and quantifiable standards to determine training effectiveness. Metrics and analytics help determine areas of improvement in the program. With a useful measurement system, companies can gauge proficiency, map training to identified knowledge gaps, and measure change year over

year.

Awareness & Reinforcement

Equally important to formal training is reinforcing training concepts to drive retention throughout the year. Using short videos that present unique and relatable compliance situations help to set the right tone, provide context, and promote a "speak up" culture.

Summary

Training as part of an overall compliance program has been a standard for many years. However, traditionally acceptable approaches are now becoming obsolete. Internal and external pressures are forcing companies to reevaluate how they train and whether that training is effective. Using a strategic approach and various tools, techniques, and practices is helping many organizations satisfy these standards. ■





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Training Management on a Compliance Culture

Experts offer some advice on how to get management to play a more integral role in creating a culture of ethics and compliance

by Jaclyn Jaeger

Most compliance departments are well aware of the valuable role that middle management can play in shaping a culture of ethics and compliance. How to work with them to achieve that objective, however, is where the challenge lies.

Traditionally, mid-level managers haven't played an integral role in spotting compliance and ethics risks, says Kirsten Liston, associate vice president of learning content strategy at SAI Global. Only in the last few years have companies started to come up with practical solutions on how to engage managers to turn them into advocates for the company's ethics and compliance program, Liston says.

The first step in educating managers on how to effectively deliver and promote the company's ethics and compliance message should start with taking their pulse and assessing what some companies call "the mood in the middle," says Liston. "Put together focus groups to understand how managers think about compliance and ethics in the first place," she advises.

The next step is to make sure managers understand how important compliance is to the company, says Liston, and let them know that it's a topic the board discusses regularly, and something senior management takes seriously. Not all managers may know, for example, that their compliance team regularly reports to the board on the status of the compliance program, she says. "Just sharing that kind of information can help managers see that the company takes compliance seriously and that they should, too."

Companies should also ensure that managers understand what it means to be a role model for the company. At aluminum company Alcoa, for example, managers are given a reference guide entitled, "Be a Role Model! How to Be a Leader in Ethics," which reinforces specific actions supervisors can take to create a culture of respect. In addition, Alcoa trains managers around the world about how to lead by example and take actions to foster an ethical workplace culture.

Simply telling managers what to do, however, is not enough. Managers aren't going to pay a lot of attention and devote resources to ethics and compliance training just because they're told, especially when it has to do with achieving business objectives, says Norman Marks, former vice president at SAP and an independent advocate for compliance, ethics, and risk management. "What you have to do is get managers to want to do the right thing," he says.

The way to go about doing that is to make the compliance message meaningful to them, says Marks. Drive the point home that if they don't adhere to the company's ethics and compliance policies and procedures that it could result in things like loss of customers, reputational damage, or even fines and imprisonment.

"You really have to make sure you make it personal to each individual you're trying to educate," says Marks. "They have to understand that their actions have an effect on them personally."

Training Methods

For education and training to be effective, it must be tailored to the specific risks that each manager faces, based on their particular geographic location. "They have to make the case studies real," says Marks. "It has to be something the person can relate to."

Telecommunications giant AT&T, for example, has recently launched a pilot program that presents employees with simulated scenarios that raise compliance and ethics challenges. "It gives employees the ability to really see what the outcome could be based on the decisions they might make in a particular situation," says Amy Rouse, director of AT&T Learning Services.

AT&T Learning Services also benefits from its partnership with the compliance team, which tracks any violations and concerns that are reported through a compliance

"You really have to make sure you make it personal to each individual you're trying to educate. They have to understand that their actions have an effect on them personally."

Norman Marks, Former VP, SAP

dashboard. "We are very quickly able to see a trend that might be developing and develop a scenario to speak directly to that particular violation," says Rouse. This then enables AT&T Learning Services to target that scenario to a particular call center, business unit, or geographic location, she says.

To simplify the management training process, Liston recommends that companies deploy training based off the tools they're already using. "If the company is already doing online training, for example, put together an online training program for managers," she says.

In every situation, managers should know how to get ahead of potential problems, says Liston. "How do they respond to issues correctly and in a way that will prevent employees from having the same problem moving forward?" she says.

"Companies that have developed their own training are doing it effectively are those that already have a really

strong compliance program and culture,” says Liston. “If you have a strong compliance culture, creating very simple tools for managers to deploy can make a huge difference.”

“They don’t have to be fancy. They don’t have to be expensive,” Liston adds. It just has to be something so that managers aren’t developing programs in the dark, she says.

Another important element to training is to keep it fresh. “We really want to make the training meaningful and purposeful,” says Rouse. “So we seek ways to make the training engaging and enjoyable.”

One way that AT&T is achieving this is through using gamification, which is the use of game mechanics in non-game contexts to engage employees in solving problems. In 2013, AT&T launched a “major initiative,” Rouse says, “where we converted a good portion of our compliance training to mobile devices to make it really convenient for our employees to take our compliance requirements.”

How long management training takes from start to finish all depends on the company. SAI Global, for example, offers an online training curriculum that is designed to be deployed over a period of six to 18 months, depending on how aggressive the company wants to roll it out, says Liston. Even without the use of an online training package, however, any company can put together its own training curriculum, “which would be way more than what they’re already doing,” she says.

Management Involvement

Managers should have a way to provide feedback. “Look for ways that managers can have input into the compliance program,” says Liston. If you can get managers involved in terms of giving feedback, they’re more likely to stay engaged in the program and delivering the company’s ethics and compliance message, she says.

The compliance team should turn to them for feedback on such matters as where training is working well for their employees, where it is not, and what compliance and ethics topics should be covered that may not currently be covered. Allowing managers to have input into the style of the training itself may also be helpful, she says.

At AT&T, for example, AT&T learning services has a “really great partnership with compliance,” says Rouse. “We meet very regularly to prioritize the training, to talk about new training, and to discuss key strategies, like emerging technologies.”

“We keep them informed of all the new things that are coming—like gamification and mobilization and new trends and video and things. They, in turn, keep us informed of the regulatory requirements that are coming,” says Rouse.

That collaboration has played an important part in ensuring not only that all employees are in compliance with the company’s policies and procedures, but that it’s also an enjoyable process for employees as well, she says. “That open line of communication and the mutual desire to both design and deliver engaging effective training is where the partnership really gels,” says Rouse. “If we didn’t have that relationship with the folks responsible for compliance, it would be a whole different ballgame.” ■

LEADERSHIP AT ALCOA

Below is an excerpt from Alcoa’s ethics and compliance program.

We distribute to our leaders a reference guide entitled “Be a Role Model! How to be a Leader in Ethics.” The guide reinforces specific actions that can be taken by supervisors globally to create a culture of respect. “Be a Role Model!” training supports the guide and is available in multiple languages on our internal Global Compliance training portal. This presentation examines the supervisory leader’s responsibility to be a role model and lead by example, and it reinforces appropriate actions to foster an ethical workplace culture.

Ethics and Compliance Training

- » *“Do What’s Right!” Training.* All newly hired Alcoa employees are required to participate in our “Do What’s Right!” training, which serves as an introduction to our corporate Ethics and Compliance Program and our values. As part of the on-boarding process, employees also receive information about our Ethics and Compliance Line and a copy of our Guide to Business Conduct.
- » *Online Training.* Alcoa employees who meet certain criteria (i.e., corporate officers, business unit leaders, employees who negotiate with customers and suppliers, employees who can contractually commit the company, employees who have access to confidential information, etc.) are required to participate in online ethics and compliance training. The selected courses serve to remind the individual of our business conduct standards and their applicability to the individual’s work responsibilities. Those enrolled in the online training program complete approximately four courses per year. In addition, we continue to use Ethics PinPoints and Moments to reinforce key messages with employees. Distributed via email, these short, multi-lingual reminders address our core values and standards. In 2012, we deployed five PinPoints and Moments on the following topics: intellectual property and use of third-party photos and materials; anti-retaliation; anti-bribery and dealing with public officials; social media; and e-mail security.
- » *Shop Floor Training.* Any Alcoa employee who does not participate in the online training program is required to complete annual shop floor training. The 2012 course was entitled “Standards of Business Conduct” and was designed to reinforce the key concepts of our Guide to Business Conduct. The course emphasized the importance of knowing and complying with laws, regulations, and company policies; asking questions in uncertain situations; and raising concerns when known or suspected violations occur. The course also stressed that Alcoa does not tolerate retaliation against employees who raise concerns in good faith. We translated the course into multiple languages for global deployment, primarily through instructor-led group sessions facilitated by human resources. However, shop-floor employees with access to a computer were given the option to complete the course online.

Source: Alcoa

CCOs Need To Be Schooled on Training Effectively

The future of effective training means understanding workforce psychologies, customizing messages, and shaping training objectives around risk assessments

by Joe Mont

Any teacher will tell you that how we learn is nearly as important as what we learn. For compliance officers tasked with ensuring that employees and management are well-trained, the process isn't quite as easy as the occasional online quiz.

An effective training program should understand the unique psychologies of the workforce and managers you hope to reach, Paula Davis, director of compliance program operations for SAI Global, said during a panel session at the Compliance Week 2015 conference.

"You've got people who don't know; people who don't care; people who don't do anything they are not told to do by management or peers; and people who, no matter what you do, simply won't care," she said. "The gap between compliance training and leadership is what we do in each of these circumstances with these groups of people."

Serving the "don't know" segment means, naturally, closing that knowledge gap—although not necessarily by memorization and recitation. "Often there is just far

too much 'driving knowledge into people' and hoping they remember, rather than giving them practical tools and techniques," Davis said. "The idea that an occasional training program is going to embed knowledge and correct behavioral practices in an entire audience is mistaken. People will not retain this stuff indefinitely; it's a use it or lose it situation."

"I hate talking about compliance. The way I usually talk about compliance is to remove that word from most of my slides and focus on professional development."

Amy Thawer, Head of Global Compliance, LinkedIn

For employees with attitude issues—that is, the ones who just don't care—CEOs, executives, and managers may be able to influence that thinking by example and tone at the top. Some leaders, Davis said, may first try to frighten people with stories of the terrible consequences that non-compliance can bring and the liabilities that will be visited upon them.

As Davis sees it, a more effective approach is to make employees care about ethical and compliance standards by appealing to basic human values. Psychological studies have also shown that people tend to be more obedient in the workplace than in any other aspect of their lives. "We can train the average employee as much as we want, but they will do what their manager tells them," Davis said.

While employees may respond to authority, and managers can help balance training with business objectives, compliance must still be in control of those initiatives, Davis says. Senior managers, she warns, "tend to paint far too rosy a picture" of their company as an ethical workplace and don't have the objectivity of a compliance officer.

Humanize the Experience

Don't underestimate the value of a personal touch, Bruce Anderson, chief ethics officer for Health-Net, said at the Compliance Week 2015 conference. "Your standard online training is really good at reminding people, but you are probably not going to change someone's mind," he said. "One of the best ways to influence people is to create workshops and go in person."



Thawer

Amy Thawer, head of global compliance for LinkedIn, spoke at Compliance Week 2015 and argued that the time to worry about compliance and ethics training is before someone is hired. He described his company as in "hyper-growth mode" where talent recruitment is a top

QUESTIONS TO ASK

The following is from a presentation at Compliance Week 2015 by Suzanne Rich Folsom, general counsel, chief compliance officer, and senior vice president of government affairs for U.S. Steel. She listed questions a CCO should ask when developing compliance and ethics training programs.

Does your company have:

- » International operations and/or sales?
- » A business model relying on third parties?
- » Government-related customers or vendors?
- » M&A transactions involving international targets?
- » Adequate internal controls implemented?

1. What is my budget?
2. Do I conduct live training, in person or both?
3. What are people calling the hotline about?

Sources: Suzanne Rich Folsom, CCO, U.S. Steel, CW Presentation

priority. Another characteristic of the LinkedIn workforce: Like many Silicon Valley companies, it courts millennials aggressively.

That necessitates “adding some sizzle to the ethics and compliance work we do,” Thawer said. Traditional messaging that might be standard at older, larger organizations had to be re-imagined given LinkedIn’s current and future workforce.

“None of us have guaranteed jobs for life,” Thawer said. “Today, there is a social compact between an employee and the company that you have a tour of duty. The employees owe it to the organization to improve it; the company owes it to the employee to enrich their professional development.”

Ethics and compliance training can be recast in this light, Thawer said. “I hate talking about compliance,” he said. “The way I usually talk about compliance is to remove that word from most of my slides and focus on professional development.” The message to these young employees: “You can’t be the CEO of a company if you don’t understand what that compliance and legal landscape is.”

Training and testing prospective employees is equally

important, Thawer said. His team gives ethics and compliance questions to recruiters and managers to incorporate into LinkedIn’s hiring and evaluation process.

“You’ve got people who don’t know; people who don’t care; people who don’t do anything they are not told to do by management or peers; and people who, no matter what you do, simply won’t care.”

Paula Davis, Director of Compliance Program Operations, SAI Global

Good Oversight

As always, executive support for compliance—including the training component, which can sometimes cost painful dollars to implement—is crucial. “You can have the best training program, but if you don’t have buy-in from senior management, if you don’t have a seat at the table and ongoing, living involvement, it is really irrelevant,” added Suzanne Rich Folsom, chief compliance officer for U.S. Steel.

To secure that executive support, the CCO must show how a training program can create value. Making that connection clear to senior executives can help override concerns that training is costly, unnecessary, or a waste of resources, she said.

Folsom suggests shaping training around compliance risk assessments, which ideally should be conducted at least once every two years.

Another pitfall is consistent messaging, since training is rarely done by a single group within a company—so compliance messages must align across the business as a whole, said Katherine Kelton, vice president of compliance for Aramark. “Compliance shouldn’t be seen as a bolt-on or add-on to the end of something that is done day-to-day,” she warned. Her approach is to build partnerships with operational leaders and stress that they share responsibility for compliance and ethics with the CCO.

Jennifer Tocci, senior compliance group manager for TD Bank, said she focused on defining roles and responsibilities—who has his or her hand in the training pot, so to speak. In many cases, internal auditors or regulators will want to know the answer to that question, to confirm that the right people in the organization created the best approaches to training.

“Is it someone in legal, someone in compliance, or a business person?” Tocci asked at Compliance Week 2015. “Who has the authority to say, ‘Yes, these are the words that are supposed to go on the page’?”

Most important of all, don’t rely on the status quo. “Don’t assume that because a company has been around a long time that they have a fabulous program,” Folsom warns. ■

ETHICAL DECISIONS

The following is from a presentation at Compliance Week 2015 given by SAI Global Compliance’s Paula Davis, director, compliance programme, operations, EMEA; Bruce Anderson, Health Net chief ethics officer; and Aryn Thawer, head of global compliance at LinkedIn.

Why do bad things happen?

- Ignorant: don’t know
- Indifferent: don’t care
- Obedient: don’t dare
- Unethical: won’t care

Making Better Decisions

- Every business decision is an ethical one
- Optimal profits
- Intuition vs. reason in moral decisions
- Changing people’s minds
 - Someone they respect
 - Someone they want something from
 - It’s personal (in person)

Ethics and Influence

“If there is any one secret of success it lies in the ability to get the other person’s point of view and see things from (his) their angle as well as your own.”

—Henry Ford

Source: CW 2015 presentation from: SAI’s Paula Davis; Bruce Anderson of Health Net; and Aryn Thawer at LinkedIn

Gauging the Effectiveness of Online Instruction

by Karen Kroll

You roll out an online training program focused on anti-money laundering regulations. The information collected by the program indicates that everyone who needs to take the course and passed the brief exam at the end.

So, does that mean the training was effective? As online compliance training has become more popular, a growing number of compliance chiefs are asking this very question.

According to NAVEX Global's 2014 Ethics and Compliance Training Benchmark Report, 71 percent of compliance training programs use online tools. They're used more frequently than any other methods, including live training and print resources.

Given the popularity of online training, compliance and other executives need to know these tools are effective—that the employees who participate gain a solid understanding of the relevant regulations and then apply their knowledge. After all, training of all types can account for a significant portion of a compliance budget, and the courses often take non-compliance employees away from their official responsibilities. "Executives are asking if the training is valuable,"

says Ingrid Fredeen, vice president of advisory services with NAVEX Global.

More is at stake than just the dollars, although the costs can add up. An effective compliance training program can earn companies favorable treatment in the event of a compliance lapse. The Federal Sentencing Guidelines state: "The organization shall take reasonable steps (a) to ensure that the organization's compliance and ethics program is followed, including monitoring and auditing to detect criminal conduct; (b) to evaluate periodically the effectiveness of the organization's compliance and ethics program."

Just as organizations monitor business operations and make adjustments to boost performance, they need to monitor and adjust their compliance training programs, says Joan Meyer, chair of the North American compliance and investigations practice at Baker McKenzie. The goal here, however, is to reduce risk.

Tough Numbers

More companies are going beyond the old method of putting out compliance training programs and just hoping they work. When asked about training trends they're currently applying or will apply, "measuring training effectiveness" came in second, just below "adding more course titles." Fredeen says she's noticed this shift in her conversations with companies. "Over the last twelve to 18 months, I'm hearing more clients talk about effectiveness."

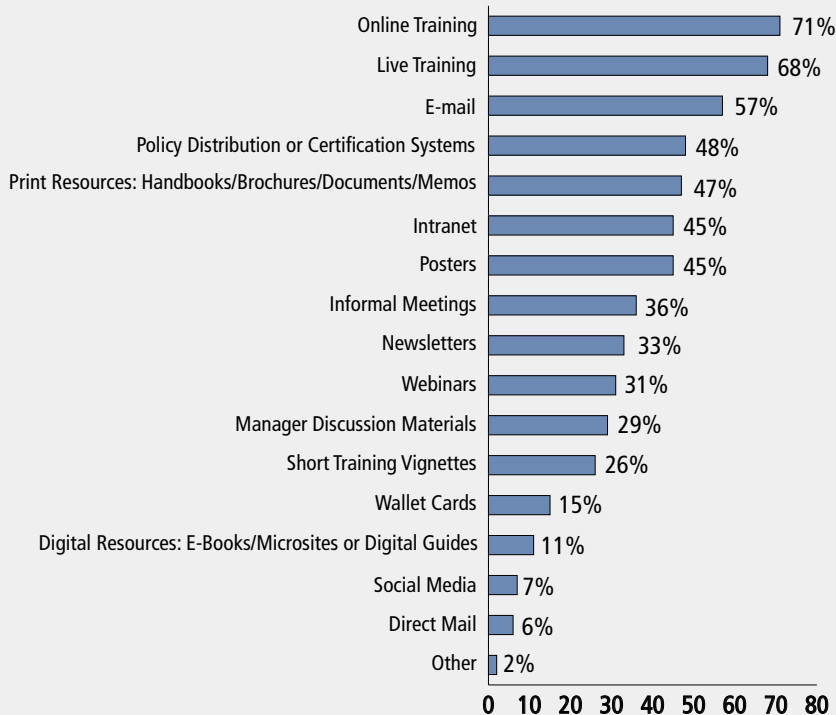
At the same time, accurately determining effectiveness is tough. Indeed, 96 percent of participants in the report ranked it as a moderate or significant challenge – putting it ahead even of budgetary challenges. "It's a hard, practical problem," says David Guralnick, president of the International eLearning Association.

Ideally, compliance professionals would be able to measure how well employees understand the material and how their behavior changes as a result of the training. But in contrast to, say, answers on multiple choice quizzes, behavior changes can't be easily quantified. Moreover, it's always risky trying to connect a change in behavior to a specific course or class, since numerous factors influence how individuals act.

As a result, few organizations appear to have mastered

COMMON TRAINING METHODS

In the following graph from NAVEX Global, companies were asked what form of training they most frequently use.



Source: NAVEX Global

this. “I’ve not talked to one person who has it totally figured out,” Fredeen says.

Many organizations start with statistics that are relatively easy to assemble, such as the percentage of employees who completed a training course. In fact, nearly three-quarters of survey respondents measure this. Another attribute, course quality—that is, whether the material is relevant and presented in an engaging way—is another area in which compliance professionals are interested.

Again, this information can be important. Rebecca Herold, an information privacy, security and compliance consultant and co-owner of HIPAA Compliance Tools, says she’s come across purported courses that were nothing more than hundreds of PowerPoint slides, each containing text excerpted directly out of some regulations, such as HIPAA. “It’s not even training. It’s just dumping information that’s boring to most.” Not surprisingly, few employees actually ever read it, she says.

Organizations need to look more deeply than the information presented by these measures to evaluate participants’ true understanding and application of the material, Herold says.

Getting Started

While more companies are interested in gauging the effects of training. The discipline isn’t entirely new. For decades some companies have employed what is known as the “Kirkpatrick Model.” In 1954, Donald Kirkpatrick developed the model for his Ph.D. dissertation, “Evaluating Human Relations Programs for Industrial Foremen and Supervisors.”

Kirkpatrick’s model is based on four principles. As an organization progresses through the four levels, it gains increasingly valuable insight.

- » Level 1—Reaction: To what degree do participants react favorably to the training?
- » Level 2—Learning: To what degree do participants acquire the intended knowledge, skills, attitudes, confidence, and commitment based on their participation in a training event?
- » Level 3—Behavior: To what degree do participants apply what they learned during training when they are back on the job?
- » Level 4—Results: To what degree do targeted outcomes occur as a result of the training event and subsequent reinforcement?

Here’s how these principles could come into play with online compliance training:

Reaction: Assessing this could start with a survey that asks employees how they felt about the course. Did they like it? Did they find it engaging?

To be sure, any number of variables can influence the responses to such questions. An employee who is unhappy in his or her job may not like the training, no matter how good it is. Still, this information can be useful; participants who

can’t wait until the course is over are unlikely to learn much.

An important part of this step is establishing up front a number that indicates some level of success, Fredeen says. For example, if 75 percent of participants say they found the training worthwhile, is that a good number? The idea is to set a baseline and then improve, she adds.

Learning: A combination of quizzes, interviews, or follow-up surveys at several intervals—for example, immediately after the training and then again a few months later—can help to evaluate a participants’ understanding and retention of the material, as well as highlighting areas that require additional explanation. “If 80 percent miss the same question, you need to provide more training on that topic,” Herold says.

Again, it’s important to define success ahead of time. What do participants need to learn for training to be deemed effective?

Fredeen also warns that capturing this data comes with responsibility, particularly if participants’ names are included with the results. If it becomes clear that an employee is likely to violate a rule because he or she doesn’t understand it, the organization needs to take action. “Be careful what you collect, because you own it once you have it.”

Behavior: While the goal of effective compliance training is to change behavior, determining if it actually did is a soft science. Still, compliance professionals can take steps that will offer clues. To start, they can ask managers if they notice appropriate changes in behavior, Fredeen says. Are more employees speaking up when they notice something that looks suspicious? Are their determinations of suspicious activities generally accurate? Compliance officers also can look at hotlines and case management data to see if levels of misconduct are declining.

Observation can also be a powerful tool. Three to nine months after she’s conducted training, Herold often conducts walk-through audits of the organization, checking for any mis-steps. For instance, is confidential information left unsecured on employees’ desks after hours?

Scenario-based assessments—asking course participants, “In the situation described here, what would you do?”—can provide an idea of how employees might apply the information they learned, Guralnick says.

The questions should be tailored to the company’s business model. “Discuss real-world risks that occur in the business,” Meyer says. Companies with extensive distribution channels need to cover the risks in working with third parties, while those engaged in government contracting will want to incorporate anti-bribery regulations.

Results: Credibly assessing the results of compliance training typically requires experts who can appropriately control for variables, then identify links between training and the outcomes desired, such as a more ethical corporate culture. Most organizations will need to use a mix of data, as no single statistic will provide all the information needed. Given the challenges, few have truly been able to master this, Fredeen says.

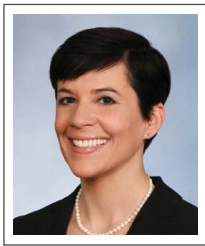
Even so, trying to capture this insight is worthwhile. “If a company takes the time to properly train employees,” Meyer says, “it minimizes risk to a great degree.” ■

Q&A: What Is a 'Culture of Compliance,' Anyway?

Wolters Kluwer's Barbara Boehler, a regulatory compliance expert talks about how to define and measure culture, how it can be more than just a collection of good intentions, and what regulators expect to see

by Joe Mont

A term of the moment in regulatory circles is “culture of compliance,” a desire for firms to move beyond check-the-box rules and compliance demands by making good behavior part of their corporate zeitgeist.



Boehler

The latest regulator to do so is the Financial Industry Regulatory Authority. In January, its annual Regulatory and Examination Priorities Letter stressed that firm culture—which “has a profound influence on how a firm conducts its business and manages its conflicts of interest”—would be a focus. A Targeted Exam Letter distributed last week made good on that promise by asking a sampling of the firms it oversees questions about

how they communicate, reinforce, monitor, and measure organizational values.

CW spoke to Barbara Boehler, a regulatory compliance expert at Wolters Kluwer, about the increasing focus on corporate culture, how to define and measure it, and what regulators expect to see.

FINRA's exam guidelines, like other regulatory bodies, stresses a “culture of compliance.” What does it have to say about that somewhat subjective term?

It is amorphous, but it is also something that has hit the regulatory vernacular. We are seeing it at FINRA, in speeches by Securities and Exchange Commission officials, and in language coming from the Federal Reserve and other bank regulators.

FINRA, with its exam priorities letter, left it up to firms to develop their own definition of culture. It refers to a set of both explicit and implicit norms and practices and expected behaviors that influence how a firm's executives, supervisors, and employees make and implement decisions. In 2016, we are seeing them formalize their assessment of a firm's culture by continuing to focus on core conflicts of interest, while also embracing the idea that culture has a profound effect on how a firm conducts its business and manages those conflicts.

FINRA is not dictating culture; they want to understand how it affects compliance and risk management practices at

a firm. This understanding will help them evaluate individual firms and the regulatory resources they devote to them. It leads me to believe that firms that can't find a way to formally document and demonstrate a positive culture of compliance will receive more scrutiny. The proof is what you can show the regulator and you always need to “show your math” when it comes to inspections.

Culture [is like the Supreme Court Justice Potter Stewart's] definition of pornography: hard to define, but you know it when you see it. It is a bit hard to define, but certainly you know it when you work within it. The difficulty for firms is finding a way to illustrate that to the regulators.

How does one go about measuring a concept that, as you have described it, is as “squishy and intangible” as culture?

You are required to have written supervisory procedures. It is nice to have a mission statement, for example. It is not, however, going to be enough to just have that stuff on paper. You need to be able to show that you are living and breathing your compliance program and it fits within the nature of your business.

Anyone can pay a marketing firm to develop a mission statement for them. Even Enron had a pretty fantastic one. Anyone can pay a law firm to craft supervisory procedures for them. When FINRA examines you, however, you need to make sure the written supervisory procedures are reflective of the business. When demonstrating and measuring success, it is not so much whether a compliance violation happens, as what you do once it does. You want to demonstrate that you discovered the issue, investigated the cause, amended policies, trained employees, and remediated as necessary, making sure that everything you did was documented.

We've seen instances where really large firms have taken hardline approaches to how they remediate compliance violations. There was recently a mini-scandal at Goldman Sachs when 20 new hires cheated on their training exams. Rather than a wink-wink, nudge-nudge—that this sort of thing happens and is not taken seriously—they fired the employees. The message: They are taking it very seriously when employees are found to have violated the procedures. In a check-the-box culture, where there isn't a good tone at the top, employees will pay lip service to compliance. They cannot be expected to view it as important if they model their behavior on that of their managers.

[Banking giant] UBS has started to score employees on their behavior, and year-end bonuses are going to be affected by whether or not they act ethically and are team players. It begs the question of why you might keep someone who doesn't score high on the “whether or not you act ethically” question, but it is nice to see they are coming up with some demonstrable, measurable assessments that actually have an effect. You are not going to get your bonus if you are not demonstrating the corporate culture.

What steps should CCOs take to be equipped with necessary resources as they navigate a culture-focused regulatory environment?

They need to make sure they have the right people, processes, and policies. Compliance cannot just be something the compliance department worries about, so it is nice to see firms where compliance is a little bit more decentralized. Where compliance doesn't all sit on the 11th floor, it permeates throughout the business—you are sitting with your business lines and they are comfortable with an open-door policy and coming in to speak with you. You don't want to be a firm where they are asking for forgiveness, not permission.

We are trying hard to overcome old-school thinking and lazy compliance. You don't want a workforce that is petrified to make a move; you want one that is comfortable enough to ask questions. If there is no two-way communication between them and the compliance department, something is missing. You want there to be constant communication with the compliance office, which doesn't happen when it is only drafting policies.

You want to have the right technology in place so your business isn't falling behind. There are some parts of the business that may need to be automated, but you need to do a risk assessment and there needs to be a thoughtful analysis that keeps stakeholders informed.

Most importantly, in terms of having a culture of compliance, you really do need support from senior management.

It can be as simple as making sure that someone who is very senior at the firm attends employee orientations to make sure new recruits realize that culture is taken very seriously at the firm.

What level of investment does a firm need to prove its commitment?

Regulators are not going to tell you exactly what to do. They are not going to tell you what processes you need to buy or endorse vendors. Having a thoughtful, top-down reason for why you are doing something goes a long way.

People who don't really understand the rules get stuck in them and aren't able to think of creative solutions for the business. Depending on what the question is, sometimes the answer has to be "no." But try to think of a "no, but" or "have we considered whether we should do it this way?"

A lot of it has to do with making sure they want to come to you. If the answer is always going to be "no," they are not going to come to you, and then something really is wrong with your culture. You can't have a compliant culture by just having the people in the legal and compliance departments going along their merry compliance ways in some kind of ivory tower apart from the business. ■

FINRA'S QUESTIONS ABOUT A CULTURE OF COMPLIANCE

The following is from a recent Targeted Exam Letter from the Financial Industry Regulatory Authority to a randomized selection of the firms it oversees.

1. A summary of the key policies and processes by which the firm establishes cultural values. In the summary, include whether this is a board-level function at your broker-dealer or at the corporate parent of the firm. If it is a board-level function, describe the board's involvement. Also, provide a description of any steps you have initiated or completed in the past 24 months to promote, strengthen or change your firm's culture.
2. A description of the processes employed by executive management, business unit leaders and control functions in establishing, communicating and implementing your firm's cultural values. Include a description of how executive management communicates, promotes and establishes a "tone from the top" as it relates to cultural values (to the extent not covered by the previous question). Include a description of the firm's approach to ensure that its cultural values are adopted and applied by middle management.
3. A description of how your firm assesses and measures the impact of cultural values (to the extent assessments and measures exist) and whether they have made a difference at your firm in achieving desired behaviors. Provide a summary of the policy statements, procedures, mission statements or other related documents that reflect your firm's assessments and measures.
4. A summary of the processes your firm uses to identify policy breaches, including the types of reports or other documents your firm relies on, in determining whether a breach of its cultural values has occurred. Please focus your summary on those activities your firm considers to be directly related to reinforcing its culture.
5. A description of how your firm addresses cultural value policy or process breaches once discovered. What efforts are used to promptly address these policy or process breaches? What is the escalation process to surface and resolve such breaches?
6. A description of your firm's policies and processes, if any, to identify and address subcultures within the firm that may depart from or undermine the cultural values articulated by your board and senior management?
7. A description of your firm's compensation practices and how they reinforce your firm's cultural values.
8. A description of the cultural value criteria used to determine promotions, compensation or other rewards. Describe opportunities for promotion to the managing director or equivalent level available to personnel of your compliance, legal, risk and internal audit functions.