Blue-ribbon Approach to Compliance

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by Mark E. Meaney, PhD

The seeds of today's compliance movement were first sown 60 years ago in a one-car shed in Palo Alto, CA. With a mere $538 in start-up capital, Bill Hewlett and David Packard launched a high-tech revolution and created a bellwether of the modern economy when they founded Hewlett-Packard (HP).

The company that created digital-age touchstones like the pocket calculator and the desktop laser printer also brought forth compliance officers and the US Federal Sentencing Guidelines for Organizations. In July 1985, then-President Reagan asked Packard to chair a specially appointed Blue Ribbon Commission on Defense Management, which came to be known as the Packard Commission. Reagan directed the commission to conduct a broad study of defense management practices to make recommendations for curtailing fraud and abuse in defense procurement systems.

Packard drew on his own experience at HP in making recommendations on how best to curb industry misconduct. In short, the Packard Commission recommended that defense contractors implement the infrastructure that supported the well-known program at HP called the HP Way. The HP Way is formally buttressed by a code of ethics, ethics training, senior management oversight, and voluntary disclosure of ethical lapses. Through the Defense Industry Initiative (DII), defense contractors agreed to implement the formal elements of HP's corporate ethics program.

In 1991, the US Federal Sentencing Commission took up the question of how to sentence organizations for criminal wrongdoing. When the commission sought to establish guidelines, it looked to the Packard Commission and adopted wholesale the seven elements of HP's corporate ethics programming. In 1996, the OIG released a model compliance plan for health service organizations, which also referenced these same seven elements.

The HP Way and Ethical Organizational Culture

A Stanford Magazine article captures the essence of the HP Way in a series of stories about the company and its founders. For example, in 1942, when an employee contracted tuberculosis and couldn't work, Hewlett and Packard not only helped him financially, but established the first corporate catastrophic health insurance plan. In the late 1960s, the company initiated the first flex-time work schedules. In the recession of the 1970s, HP avoided layoffs by ordering an across-the-board 10 percent pay cut and required employees to take every other Friday off. Finally, Hewlett came to work one weekend and found the equipment storeroom locked. He broke it open and left a note insisting that it should never be locked again because "HP trusts its people."

These stories illustrate the heart and soul of the HP Way. Far from minimal elements of regulatory compliance, the HP Way's goal was to sustain a strong, ethical organizational culture. A respect for employees and a concern for community values stand at the core. This kind of commitment has proven to pay off time and again in employee and customer loyalty as well as in economic stability. The HP corporate culture certainly helped HP through the tough organizational adjustments of the 1980s and 1990s.

A recent study published in Business Ethics Quarterly establishes a link between an approach to ethics and compliance programming and corporate culture. Gary Weaver and Linda Klebe Treviño published the first statistically valid study of the effectiveness of compliance programs. The study compared three "orientations" or approaches to the design and implementation of compliance programs to determine how different types of programs affect the attitudes and behaviors of employees. The study has implications for how we should structure and communicate our compliance efforts. It also underscores the original intent of the Packard Commission's recommendations, and how the HP Way continues to serve as the paradigm.

The three orientations Weaver and Treviño studied were:

- the compliance approach, which emphasizes strict legal or regulatory compliance, with a focus on detection of violations and discipline for violators
- the values approach, which emphasizes shared organizational values and ethical ideals
- the interactive/integrative approach, which combines both the compliance and values approaches

The study first demonstrates that employees can differentiate between the three approaches, and that they respond differently to them. Moreover, it demonstrates that a values approach is significantly more effective than a compliance approach, and that the interactive/integrative approach is best overall.

Weaver and Treviño found that a values approach was associated with seven important outcomes:

- increased employee awareness of ethical issues at work
- a likelihood that employees will seek ethical advice within the organization
- less unethical behavior within the organization
- a commitment of employees to the organization
- a sense that employees' own values and integrity will not be threatened or undermined by the organization
- a likelihood that employees will report bad news to their superiors
- a perception that there is a higher quality of decision making generally within the organization as a result of the program

A compliance approach was associated with only four of these outcomes, and the association was weaker:

- increased employee awareness of ethical issues at work
- a likelihood that employees will seek ethical advice within the organization
- less unethical behavior within the organization
- a perception that there is a higher quality of decision making generally within the organization

Interestingly, however, employees are only likely to report misconduct-an eighth outcome-if both approaches are present and integrated.

This last finding suggests that the values and compliance approaches are by no means mutually exclusive. These results suggest that our programs ought to lead with shared values and ethics but not neglect the regulatory side of compliance. Thus, it is not enough merely to follow the US Sentencing Commission's guidelines for due diligence in regulatory compliance. An effective program-one that significantly affects employees' attitudes and behaviors-also conveys a message of trust and support through shared corporate values. When organizations frame legal or regulatory compliance in terms of ethical awareness and employee integrity, they can realize additional benefits in the long term that are important for what I call sustainable compliance.

Setting the Tone

Striking the proper balance between values and compliance approaches may be more of an art than a science. Nevertheless, it begins with attention to our language and styles of communication. I call this setting the tone. Setting the tone is important because a sustainable program depends on mutual trust. Language and the way we communicate the program are important in establishing and maintaining this trust among employees and between employees and management.

For example, both the sentencing guidelines and the OIG's model plans call for written standards. If an organization adopts a strict compliance approach to its code of ethics and standards, it will typically use the legal language of due diligence and emphasize detection of regulatory violations and the penalties associated with such violations. The language of due diligence will, in turn, shape employees' perceptions in ways measured by the Weaver/Treviño study. Employees tend to perceive such a program as narrowly focused on catching them at doing something wrong. This is not likely to foster trust.

If, on the other hand, organizations attempt to find the right balance between values and compliance approaches, they will use the language of shared values and ethical ideals in the code of ethics to set the overall tone of the program. Here the HP Way can serve as an example. The ethics literature of the HP Way emphasizes the importance of ethical awareness, ethical behavior, and support for employee integrity. There is also attention to due diligence in regulatory compliance; this cannot be

neglected. But the message of the HP Way is clear: we expect our employees to do the right thing; indeed, we trust them to do the right thing. It should go without saying that, in the present regulatory environment, doing the right thing will also be good for the organization.

Obtain Critical Distance

The sentencing guidelines and the OIG's model plan also recommend case-based, interactive education and training for all employees. The OIG's model plan, in particular, recommends from one and a half to three hours of employee case-based, interactive education. Effective use of this education opportunity can also serve as a vehicle for establishing and communicating trust and strengthening corporate culture. The objective should be to communicate shared values and to show how behavioral compliance will be supported or even rewarded (as opposed merely to claiming our organizations will not retaliate against employees who report violations). Here again the HP Way can be instructive.

At HP, the specific purpose of the education and training sessions for the HP Way varies with the audience. For executives, the purpose is to help them define and shape a leadership role in fostering an ethical organizational culture and behavior. HP education and training professionals use case studies to orient executives to the HP ethics literature and to the language of ethics and compliance. Executives are encouraged to make ethics a regular topic of conversation with their own staffs. When executives truly "walk the walk," everyone in the organization is more likely to follow their lead.

The purpose of ethics education and training for managers at HP is to encourage them to model ethical behavior for their employees. Case studies not only orient managers to the language of the code of ethics and standards, but also help managers recognize and respond appropriately to corporate ethics and compliance concerns. An appropriate response means understanding and acting within the limits of their discretionary powers in such situations. Managers experience pressure from both executives and employees. They must therefore be equipped with ethical decision-making tools that enable them to resolve ethical conflicts.

The purpose of ethics education and training for employees at HP is to help them understand and meet organizational expectations with regard to ethics and compliance and to achieve critical distance. The case-based, interactive methodology orients employees to the ethics literature of the HP Way, but also provides them with tools for critical thinking. Employees are on the front line of an organization; they are mostly likely to encounter compliance problems. Education should therefore help employees not only recognize such problems, but also maintain critical distance from, for example, the dishonest or self-serving manager who tells them not to worry about it. It should give them a voice against ethical and legal violations.

The Method and the Message

The HP Way and the Weaver/Treviño study can advance our understanding of what counts as an effective compliance program. We can use the HP Way as a model program in the design and implementation of compliance programs that will achieve optimal outcomes. The Weaver/Treviño study shows that the approach of a program can influence employees' perceptions, attitudes, and behavior-for better or for worse. The use of language and the way we communicate have the greatest impact on outcomes. As David Packard well knew, the message and how one gets the message across largely determines how employees and managers respond. The example of HP's strong, ethical organizational culture demonstrates that organizational leaders should strive to find the right balance between the values and compliance approaches and integrate them for the best results. The bottom line is that employees respond best to a program that emphasizes shared values, ethical corporate culture, and behavioral compliance.

References

Collins, James C., and Jerry L. Porras. Built to Last: Successful Habits of Visionary Companies. New York City: HarperBusiness, 1994.

The Defense Industry Initiative on Business Ethics and Conduct 1998 Annual Report. Available online at www.dii.org/annual/1998/background.html.

Jacobson, David. "Founding Fathers." Stanford Magazine, July/August 1998.

Weaver, G.R. and L.K. Treviño. "Compliance and Values Oriented Ethics Programs: Influences on Employees' Attitudes and Behavior." Business Ethics Quarterly, April 1999.

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