



COMPLIANCE 3.0

THE COMING OF THE AGE OF EFFECTIVENESS

How the mindset of compliance has changed over the last few decades and where it is headed now

Introduction

A THIRD MAJOR SHIFT IN THE MINDSET OF CORPORATE COMPLIANCE: EFFECTIVENESS

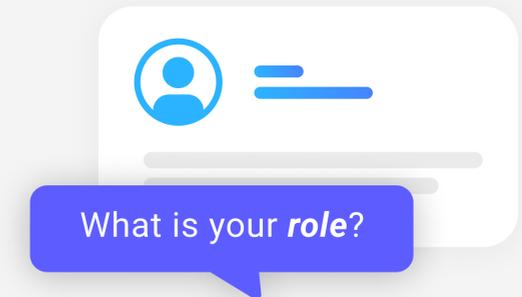
Departments within business devoted to Ethics & Compliance are relatively new, but within the span of several decades it has gone from an obscure quasi-legal function of only the largest corporations into an essential component of strong businesses.

In a broad sense, there have been 2 major shifts in the mindset of those involved in E&C programs: the **Compliance 1.0** shift and the **Compliance 2.0** shift. Presently, a third major shift approaching.

On the next page you will see an overview of the past mindset changes and in this eBook we will go into the specifics of what each one is and how **Compliance 3.0 should be the goal of every compliance professional.**

WHO THIS E-BOOK IS FOR

- Board Members
- Chief Compliance Officers
- Compliance Analysts
- Ethics & Compliance Aficionados



Compliance Mindsets

Compliance 0.0

Throughout human history E&C was left to such people as philosophers, priests, and politicians.

1992 U.S. Federal Sentencing Guidelines (FSG) Enacted

2001 Enron/Worldcom scandals lead to Sarbanes-Oxley Act

2004 FSG Amendments

Compliance 3.0

- Effectiveness-centric
- Self-actualized
- Self-sustaining
- E&C works with HR & strategy
- High Discretionary Effort
- Seat at the table

1990

2000

2010

2020

Although specific mindsets were prevalent during certain time periods, this does not restrict them to those time. For example, some organizations still have a Compliance 1.0 mindset even though it is thoroughly outdated.

Compliance 1.0

- Reactive and protective
- Answer to GC or legal dept. despite conflict of interest
- Little understanding of how to define a E&C program

Compliance 2.0

- Efficiency-centric
- Sitting on data lakes
- Siloed department
- Excluded from major decisions board meetings

Compliance 0.0

In the beginning...

Rules of ethics and compliance have been a part of our shared human history since the days when people first began to form villages and cooperate for mutual gain. Aristotle, Socrates, Confucius, Friedrich Nietzsche, and Voltaire: all philosophers over the past two and half millennia who pondered the role of ethics and compliance in an ideal society.

No one can say Ethics & Compliance is new, but as the industrialized world grew more complex, people more educated, and governments more stable, the application of E&C (as we know it) to industry and business emerged as a response to corruption and exploitation in the late 19th century.

For example, in the United States, antitrust regulations cracked down on monopolies to ensure competition and the Food & Drug administration was established to protect consumers from shysters and snake oil salesmen.



December 2, 1902, **Teddy Roosevelt's State of the Union Speech**

Addressing early opposition to regulatory compliance

“We draw the line
**against misconduct, not
against wealth.**

The capitalist who, alone or in conjunction with his fellows, performs some great industrial feat by which he wins money is a well-doer, not a wrongdoer, provided he only works in proper and legitimate lines.”



Beware: The Data Lake Swamp

The second possible pitfall of the Compliance 2.0 mindset is the stinking, muck-filled Data Lake Swamp. While the victims of the 2.0 Efficiency Abyss cross task after task off their lists without a risk-based focus, the victims of the Data lake Swamp have been led astray by flashy technology and fancy dashboard--much like the legendary will-'o-the-wisp leading travelers deeper into a swamp until they are lost.

While tech tools are a useful component of E&C, simply having them does not make your program effective. You may have collected a lake of data in the form of a hundred or even a thousand compliance reports. You might have pie graphs to showcase trends and percentages.

But what does it matter if you cannot ***translate data into actions with effective results?***



Compliance 1.0

Keeping the boss out of jail...

For most of the 20th century, compliance & ethics was taken on as the responsibility of governments. Regulatory focus was on the macro-scale, with eyes on industries as a whole, but in recent history the focus has shifted to the micro-scale. An informed public and more multimedia outlets meant internal compliance concerns could spread rapidly producing consumer and regulatory backlash.

After the Federal Sentencing Guidelines of 1992 were enacted, the first compliance programs as we would recognize them began to form, though often subordinated to the general counsel or another department.

Compliance 1.0 was the mindset of the time. During which there was a lack of clarity on what E&C really was.

Compliance programs were reactive and served as “check-the-box” initiatives intended to keep executives from going to jail and shielding the bottom line from federal penalties.



Compliance 2.0

The Efficiency Pitfall

The Compliance 2.0 mindset developed in reaction to the Enron and Worldcom scandals of 2001 and the revision of the Federal Sentencing Guidelines in 2004. By this time, professionals understood what E&C was and how it was supposed to interact with an organization.

The 2.0 mindset leads professionals to devote too much of their energy to the false idol of efficiency; building long to-do lists, performing analyses, employing an arsenal of tech tools.

E&C solutions are homogenized in the 2.0 mindset and quality takes a backseat to quantity. Predictable solutions are the default and innovation is treated with caution.



Beware: The 2.0 Efficiency Abyss

A 2.0 mindset is simply a way station on the road to the development of the more balanced Compliance 3.0 mindset, but the majority of modern compliance programs have fallen into a pit where thoughts of effectiveness only come after thoughts of efficiency.

Programs which languish in this mindset dwell in the murky and dreaded 2.0 Efficiency Abyss.

As compliance programs matured from a 1.0 to a 2.0 mindset, compliance professionals found they had to reconcile and justify the function of E&C to executives who thought in quantifiable and value-based ways. Abstract concepts such as a Speak-Up Culture can be difficult to express as a dollar value. Thus, compliance programs fell into the abyss, trapped by value-based goals alone. Efficiency measurements and listing out completed tasks is the easiest way to express value. Although it appears more efficient (on paper) to cross tasks off a list or be able to place data into a pie graph, a 2.0 compliance program lacks a true risk-based focus, and thus lacks effectiveness.

Compliance

This is the dawning of the *Age of Effectiveness...*

The third major shift in the mindset of corporate compliance is nearing as business and economics as we know them are about to change. By 2030, 70% of the workforce will consist of Millennials and Generation Z'ers and as they rise to positions of leadership, their value systems (based on equity, authenticity, and purpose) will align with self-actualized compliance programs.

A 3.0 workplace will be filled with supercharged employees whose discretionary efforts will multiply profitability

Genuine effectiveness is the core of Compliance 3.0; it balances efficiency with actual results allowing an organization to live out its values. Compliance 3.0 professionals are not siloed and initiatives are not a one department endeavor-- E&C has connections and partnerships with corporate strategy and HR. A 3.0 code of conduct is a living social compact witnessed in action every day. And a 3.0 E&C department is a far cry from the idea of an "office of NO."

Conclusion

If the development of E&C is anything like child development then Compliance 1.0 was akin to a toddler, unsteady on its feet and unwilling to let go of the hand of their parent (e.g. the GC or legal department). Compliance 2.0 is the adolescent, whose body has grown, but its brain is lagging behind. Compliance 2.0 can do things efficiently, but it lacks the expertise to do them effectively. And finally, Compliance 3.0 is the grown adult who is wise enough to seek results and create something better than what came before.

It's important to remember possessing a compliance 3.0 mindset does not automatically mean you have a 3.0 E&C program.

A 3.0 program takes time to build with buy-in from executives, the board, HR, strategy, and other departments working together. A 3.0 program has the power to unlock the potential of your workforce, especially the newer generations who are less tolerant of lip service when it comes to company values.