



Compliance TODAY

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Promoting a culture of compliance in daily operations and business goals

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Snell

For 20 years I have been told that compliance is a fad that will fade. And they were all wrong. I was told by someone in enforcement about 10 years ago that he was going to stop supporting something related to compliance and that if he did, compliance programs would decline. And he was wrong. This is bigger than any one person or administration. There have been about a dozen times over the last 20 years that someone involved in our profession said some current event was going to cause compliance programs to decline and they all had something in common. They were all wrong. In fact, not only has the number of compliance professionals grown every year for 20 years, compliance programs have now spread around the world.

Well, they are at it again. This time I believe they have gone too far and have become a risk area for compliance professionals. If your CEO listens to them and reduces their compliance resources, your company's risk of a compliance failure could increase. I thought I had seen it all in the last 20 years but I never thought that I would see compliance pundits become a risk area. This is dripping with irony. They are telling people the need for compliance is going to be diminished under the new administration because the number of regulations could

decrease. I am tempted to bet anyone that there will be more pages of regulations at the end of 2017 than there were in the beginning. If we have fewer pages at the end of 2017, it may be the first time it has ever happened. But frankly, the number of pages of regulations is irrelevant. Most regulations are not even enforced. It is the settlements that matter.

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The compliance officer's workload could be reduced significantly and they would still not have enough time to get their job done. Most of the laws that are going to be changed are going to reduce bureaucratic paper work, not compliance work. The FCPA may be simplified but bribery will still be illegal. The ACA laws may be changed but they don't apply to most compliance officers. Building an ethical culture takes a great deal of the compliance officer's time. None of that ethics work will change if Dodd-Frank, ACA, FCPA, etc. are simplified or eliminated. Compliance officers at multinationals who are dealing with dozens of country's laws

and different cultures will barely feel the impact of a few changes in US regulations.

Compliance is driven by settlements not by the number of pages of regulations. Compliance is driven by watching business leaders lose their job or go to jail over a compliance or ethics issue. No regulation is going to be eliminated and allow pedophiles to roam your campus, people to be killed by faulty air bags, banks to steal from their customers, spilling 200 million gallons of crude oil into the ocean, misleading shareholders with false financial statements, or writing software to defeat government testing. If the lying, cheating and stealing continue, settlements, job loss and jail time will continue. If that happens, not only will compliance programs continue, compliance programs will increase. Of course, there are also many CEOs that support compliance because it is the right thing to do and their efforts will not diminish no matter what the new administration does.

I called the smartest guy in compliance before I wrote this. Joe Murphy told me, "The only way that compliance professionals will find a material decrease in their workload is if we all wake up tomorrow morning and everyone does the right thing." I hope that your leadership is not fooled by this latest round of, "The sky is falling." If your CEO listens to them the compliance pundits will be a new risk area for compliance officers to deal with. However, they are a short term risk because like all the others who have predicted the end of the world for compliance programs in the last 20 years... they are wrong. It will be obvious to everyone in 12 months. My advice to anyone who is asked about the impact of the new administration on compliance programs by their leadership is to tell them to wait 12 months. And as always, your CEO should be careful who they listen to. ☺

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