***NRCoP Webinar 22 February 2022***

***Compliance Planning: So much to do, so little time (and money) how do regulators allocate scarce resources***

***Additional Q&A***

|  |
| --- |
| **Rachel Scalongne, QLD Department of Regional Development, Manufacturing and Water** |
| **Question**: How do you influence change when the Compliance Plan Manager thinks it's only their responsibility: how can I become an agent of change in this space? |
| Influencing change can certainly have its challenges. However, there are a few things you can try to do to improve this situation positively and become an agent of change.  Perhaps start with working through what you see as the change that’s needed and why? How could this best happen and what would be the benefits? Then think about what you see your role in this could be?   * Is it having the opportunity to put forward ideas about what should be in the plan? * Is it using more technical or local knowledge to inform the plan? * Is it influencing the amount of work that goes in the plan so it can be resourced appropriately? * Is it building an improved culture of ownership around delivering compliance outcomes?   Whilst someone may be responsible/accountable for delivering an ‘end product’ (like a compliance plan), in my view, it’s a team effort in delivering it. It’s therefore beneficial in working as a team to develop it.  Talk about how this approach would help the compliance plan manager still meet their obligations but deliver a plan that’s well understood by those involved and sets it up for successful outcomes. |
| **Question**: How can we achieve long term improvement when the people we are regulating are simply reacting to being ‘checked’ rather than ‘improving process’. |
| A compliance planning process is a great way to identify and test some ways to address this common issue.  In developing a plan to tackle this, you first need to know more about what’s behind this behaviour/problem before you can look at how you might start addressing it in the short to longer term.  Without knowing your specific area of regulation, below is some suggested approaches and ideas:   1. Gather information to understand the issue. Start with thinking about:  * What are the driver’s for those you regulate to decide to comply or not comply (e.g. money, lack of understanding, priorities, others aren’t so why should I?) * What do they understand about their responsibilities to comply and what ‘help’ do they need? * Of those that have complied what did they do differently to those that didn’t? * What are some of the biggest issues and what needs to change?   Example: This could be done by engaging with your regulated community through workshops or surveys to seek information or ask during your ‘checks’ or audits. Seek input from your colleagues and those involved in the regulatory activities. Analyse any data you have or external information to help build that picture.   1. Review and assess your findings:  * What does this information tell you (common issues/things needing to be improved, why they are issues, key timings, locations, things you could do to help those you regulate etc)? * What do you want to achieve, what does success look like and how will you measure it?  1. Ways to address:    * E.g. with the information you have, workshop with key people across your organisation to determine what can be done proactively to motivate and encourage compliant behaviour    * Some things you could try (if not already doing it):    * Targeted monitoring or education before critical compliance dates or at a time when you can best influence a change    * Communicate stories of good compliance    * Distribute outcomes of your findings and share common compliance issues and the regulatory expectations    * Regularly talk with those you regulate to share information, outline impacts of not complying and why it’s important to comply. Seek input and work collaboratively to drive changes    * Provide more accessible information or technology tools to make it easier to comply and proactively identify issues and make improvements   Then include it in your compliance program, even if you just try one thing, monitor what happens and see what works. Then build on it in future programs and reassess your outcomes after a few years to see if what you are doing is changing behaviour and achieving longer term improvements. |
| **Andrew Wilson, Dairy Food Safety Victoria** |
| **Question**: Can Andrew give some more info about how AI was used (a step-by-step guide)? How do I go about introducing AI in my job? |
| I will answer this question on the basis of my experience with this technology thus far and my own basic research along with the usual “I am not an expert” disclaimer.  The first step that we took was to familiarise ourselves with the capabilities of AI and in what iterations we might consider it useful. AI/machine learning (ML) is a collective term for a very broad range of analytical capabilities and looking at some case studies that align with what you are trying to do is a good start. For example, we looked at some of the applications of AI being employed in community policing where such tools were being used to deploy limited resources utilising a risk-based model.    Secondly, we spent time clearly defining the problem or question that you are trying to solve. An unfocused application of AI/ML tools without a clearly defined problem can lead to something that is not fit for purpose (e.g. too broad/too narrow) or doesn’t fit a business case. This will also help you start to define your data needs at an early stage without any investment. In our case, the overarching question was “How do we better use data that we already collect to inform our business-as-usual processes?”. From this point, we sharpened-up specific questions for each application that we wanted to proceed with.  Thirdly, consider what the business case is to support development of the tool - What is the potential return-on-investment (ROI) for both internal and external stakeholders? Consider including other metrics aside from solely financial to support this case. We considered applicant satisfaction, internal efficiencies, and ease-of-access as some examples of key ROI metrics to demonstrate positive ROI.  Next, review your existing data structures and content, particularly with respect to frequency, volume, consistency, structure, dirty/clean, internal/external etc. This is an important part of considering the application of AI, as the rule “rubbish in, rubbish out” holds true. Consider which data sets might also be useful across the business and don’t be afraid to think out-of-the-box here and look across existing data silos. For example, we identified that businesses that have trouble paying invoices were more likely to have broader compliance issues, so it was useful to integrate financial reporting data – not something that would be considered under a regular compliance model.  Next, identify a partner to work with and undertake a small PoC to demonstrate delivery of value. This is best placed as being in addition to existing processes, so that there is minimal risk to business-as-usual regulatory activities. We started with historical data, which gave us the ability to validate the accuracy of the tool against the following year’s compliance data. This PoC will also validate your data attributes, identify any significant gaps and consider whether there is merit in addressing these against the ROI (e.g. is it reasonable to ask stakeholders to supply information more frequently, can we transform the data to give us an improved answer, or can we create an improved framework for data collection that will be better consumed by an AI tool in the future). Additionally, a PoC will help validate prior assumptions made to support the business case for the project. If the PoC fails to satisfy the business case (and be careful of being dazzled by the “wow-factor”), carefully consider the usefulness any further investment at this time. There is no harm (or risk!) in pausing the program and re-visiting the technology in the future.  Finally, take the learnings from the PoC and scale up if valid. This should be a piece-by-piece approach as opposed to an all-in scenario. This minimises risk and lets you validate each application in respect of value, consider appropriate feedback and adjust accordingly. We approach this by going back to “Step 2” and asking what the next question is and repeating the process in a limited way. This introduces a cadence to development and provides for a good control structure around the program, particularly in development direction and expenditure (to varying degrees). |
| **Question**: Can the panel members comment on the value of a "control test compliance process" being run in parallel to the strategic compliance plan as a check test against the interpretation given to the analysed data? |
| I am interpreting this question as being related to the validation of analytics guiding compliance planning versus a traditional manual compliance planning process.  As we are all aware, there are a number of social, environmental, economic and political variables, in addition to traditional sources of intelligence, that need to be taken into account when undertaking compliance planning. Consideration of these factors should be maintained to ensure that analytical tools account for changes required as a result of these, as failure to do so risks divergence from an intended regulatory outcome. Hence, in the first instance at least, analytical tools still need to be critically reviewed with regards to regulatory impact on a consistent basis (e.g. as per existing arrangements) to ensure that they remain contemporary. In other words, I would not consider the introduction of an analytical tool to assist in compliance planning a “silver bullet” in lieu of existing review frameworks.  With respect to running a parallel process to provide a comparison, this would most likely come down to the approach employed. If the introduction of analytical tools is step-wise and considered, then validation should be inherent in the adoption process and the risk of divergence controlled. On the other hand, if a manual “check” process is to be run in parallel, then the value of direct comparisons is high but the resource cost is also high and the return on investment may be diminished. One way to achieve this, at least for an initial validation of an analytical model, might be to look at historical data where personnel resourcing has already been deployed, and compare the answers provided by the analytical model for alignment. |
| **Nick Heys, Australian Competition and Consumer Commission** |
| **Question**: Does the panel have any views on a taskforce based approach on tackling specific identified harms, and a separate general compliance workforce for the 'hygiene' maintenance? |
| The ACCC has used the taskforce approach to respond to immediate and urgent issues which warrant attention. The advantages of a taskforce approach are that:   * it can pull together a team of staff with a range of skills – investigative, litigation, education, communication and compliance skills to respond concurrently to the issue. * staff can be moved in and out depending on various needs, and as work levels fluctuate. * taskforce staff are able to build collaborative relationships with those outside their business-as-usual workstream, which are able to be leveraged in future projects.   A separate general compliance workforce is also the approach that the ACCC takes for ‘business as usual’ compliance activities. However, its important to note that this generalist approach should be able to use the full range of compliance tools available in the toolkit. Investigative staff should also be comfortable with using compliance tools and approaches where appropriate. |
| **Question**: What does a more "hands off" compliance tool look like? |
| A hands off compliance tool is something that can be used when there is low harm or low risk, while still being effective at changing behaviour or preventing non-compliance at the outset. Examples of hands off compliance tools include industry guidance, and compliance manuals/checklists that industry can use to monitor and review their own activities.  Industry led schemes – such as voluntary codes of conduct and industry bodies rules and standards – can also provide a mechanism to encourage a higher standard when compared to the minimal standard as expected under regulation. These also allow industry to be an active participant in promoting best practice, while also allowing industry-specific needs and challenges to be taken into account. Even those these schemes are ‘hands off’ for it to be effective there must still be a mechanism or sanctions available for non-compliance.  The establishment of an accreditation scheme can also enable regulators to ‘outsource’ compliance obligations to a third party certification mechanism.  Any ‘hands off’ compliance mechanism should be reviewed regularly to determine whether it is effective and whether there is any harm to the market. |