

NRCoP & ANZSOG present: Incentivising compliance: using behavioural insights to encourage and persuade

Q&A Session

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How do you navigate the situation where incentivising compliance through an activity (funding/plant/whatnot) may unexpectedly expose the regulator to liability associated with the activity?

If the regulator is in doubt, then I would encourage seeking legal advice about any liability. Some of my background is in OH&S, and my starting position would be guided by s.18 of the Victorian OHS Act which was deliberately included to affirm the power of the regulator to give advice, and to be clear that the giving of advice does not give rise to any liability against the regulator.

When working in a regulator which represents customers and license holders, what are good behavioural strategies to balance customer expectations whilst maintaining strong compliance and regulation? Sometimes it might swing too much towards one group or the other.

I don't necessarily think of it as a balancing act. Some duties are absolute, and some are qualified, and it is important for regulators to put a lot of effort into respectfully explaining how they interpret the Act in any given situation. In my experience, a lot of angst by duty holders or community is driven by a sense of not being taken seriously, much more so than disagreement with the regulator's application of the Act.

Professor Liam Smith,
BehaviourWorks Australia

Any tips on behavioural interventions that might get opposing industry actors on the same page?

In Thaler and Sunstein's book "Nudge" it's interesting that they dedicate the first chapter to explaining why behavioural approaches can appeal to both sides of politics because they don't limit choice (appealing to the right) but they do steer people toward "better" choices (appealing to the left). They call it libertarian paternalism. So, there's probably a lesson in this for situations where actors are in opposition.

But I may be misreading the question somewhat in that it's asking what behavioural interventions can help bring opposing parties together. Here I'm reminded of Benjamin Franklin who was one of the first to document that we like people more if we've done them a favour (called the [Benjamin Franklin effect](#)). In the often-cited example, he asked to borrow a rare book from a political rival and observed him being much more cordial to him afterwards. Indeed, they became friends.

Building on this example, my suggestion would be to consider behaviour as an approach to breaking down barriers. We know that taking on attitudes directly rarely works (i.e., 'you should care more about X' or 'you should change your opinion about Y') but we do know that our attitudes can be shaped by our behaviour. There are plenty of examples but Wikipedia is as good as any to explain [self-perception theory](#) which represents one explanation as to why this occurs. So, my advice would be to think about behaviours that opposing parties could undertake either individually or collectively and then use these behaviours to reiterate to actors that they must be committed to a collective solution. Importantly this shouldn't just be something they agree on, it's important that they actually do something. To give you an example, BehaviourWorks was asked to provide advice on Lord Howe Island where there was an issue with rat infestation. The issue was that there were firmly entrenched views about what should (or shouldn't) be done about the issue. Our advice was that they should find ways to agree, behaviourally, on the something they have in common. In this case, no one liked rats, so we recommended that they came to an agreement about that (if nothing else) and that they 'ratified' this by signing an accord (or similar) that stated that they shared this in common. Unfortunately, I don't know if they followed this advice, but they were able to enact a measure of rat control (aerial baiting) that was previously seen as unacceptable by some quarters.

Thoughts on applying behavioural change to duty holders that are represented by associations that are highly resistant with strong political influence?

A behaviourist typically asks the question of “who needs to do what differently” and in situations like these, there appear to be at least two “whos”. The first are the duty holders who we obviously want to comply. To target compliance, we’d always recommend speaking with the target audience with a particular focus on behaviours you want them to do, to understand their perspectives and design interventions that may work. These investigations are important because they can reveal the degree to which a peak or representative body opinions are seen as influential by the duty holder. If they are not important, then I’d suggest working with the duty holder directly using behaviour change approaches. If they are seen as important (with regard to the specific behaviour you need changed), then it’s still possible to target other behavioural drivers but I’d also suggest that it may be worth reconsidering the behaviour of interest. While compliance is always the goal, there may be behaviours that you want to encourage that reduce the influence that a peak or representative body has on the duty holder. This / these behaviour(s) are likely to be specific to the situation so may need some consideration.

The other who is the peak or representative body itself and a behaviourist would think about who, within these organisations, needs to do what differently to better enable / encourage compliance. Again, these will be specific to the particular situation.

Suggested Further Readings

Nudge by Richard Thaler & Cass Sunstein – https://www.booktopia.com.au/nudge-richard-h-thaler/book/9780300262285.html?source=pla&gclid=EAlaIQobChMI2omx7drk_wIVa5NmAh2z1A53EAQYASABEgIhkfD_BwE

Thinking, Fast and Slow by Daniel Kahneman - https://www.booktopia.com.au/thinking-fast-and-slow-daniel-kahneman/book/9780141033570.html?dsa=s1-east&gclid=EAlaIQobChMI-NWh2trk_wIVfplmAh27IgEVEAAYASAAEgIYbfD_BwE