THE PIVOTAL ROLE OF ETHICS AND COMPLIANCE COMMUNICATIONS
“The art of communication is the language of leadership.”

- James Humes

James Humes knows a little bit about communicating as a former US Presidential speechwriter and student of famous communicators including Benjamin Franklin, Abraham Lincoln, Winston Churchill and Ronald Reagan.

Humes’s statement conveys an important truth related to organizational ethics and compliance — the pivotal role of communications, especially those from leadership.

Regulatory expectations set the pace. But research into learning advances this understanding. Further, the role of leadership and its messaging in setting ethics and compliance as priorities cannot be understated. A focused, ongoing communications campaign is vital to generate interest in, aid in adoption of, demonstrate the importance and value of, and prove leadership’s commitment to the ethics and compliance message.

Communications are vital to reinforcing this important message amid many, sometimes conflicting messages about business objectives and priorities.
Regulatory Expectations

US regulatory frameworks exemplify the importance of both training and communications as essential components of an effective ethics and compliance program. The fallacy is considering them as one in the same; in fact, regulators see the distinction between the two, which offers an important insight for business leaders.

The US Department of Justice's compliance program evaluation criteria also stress communications along with training as essential to compliance:

“Another hallmark of a well-designed compliance program is appropriately tailored training and communications.”

“Prosecutors should also assess whether the company has relayed information in a manner tailored to the audience’s size, sophistication, or subject matter expertise. Some companies, for instance, give employees practical advice or case studies to address real-life scenarios, and/or guidance on how to obtain ethics advice on a case-by-case basis as needs arise.”

“The organization shall take reasonable steps to communicate periodically and in a practical manner its standards and procedures, and other aspects of the compliance and ethics program, to the individuals referred to in subparagraph (B) by conducting effective training programs and otherwise disseminating information appropriate to such individuals’ respective roles and responsibilities.”

For many years, the US Sentencing Guidelines’ elements of an effective compliance and ethics program has served as the de facto model for compliance management. This model states:

These overarching frameworks filter down to other regulators. The US Department of Health and Human Services maintains among the most extensive set of guidance for ethics and compliance program management. Its premier Publication of the OIG Compliance Program Guidance for Hospitals states:

“The organization must take steps to communicate effectively its standards and procedures to all affected employees, physicians, independent contractors and other significant agents, e.g., by requiring participation in training programs and disseminating publications that explain in a practical manner specific requirements.”

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Perhaps the finest example of how regulators actually apply this guidance came in a bribery case involving a Morgan Stanley executive. The SEC charged the executive Garth Peterson with fraud and bribery violations. But the regulator declined to charge the firm, indicating that Morgan Stanley maintained a robust compliance program. With regard to communications, the SEC compliant stated:

“Morgan Stanley distributed to Peterson written training materials specifically addressing the FCPA, which Peterson maintained in his office.”

“Peterson received from Morgan Stanley at least thirty-five FCPA compliance reminders. These reminders included FCPA-specific distributions; circulations and reminders of Morgan Stanley’s Code of Conduct, which included policies that directly addressed the FCPA; various reminders concerning Morgan Stanley’s policies on gift-giving and entertainment; the circulation of Morgan Stanley’s Global Anti-Bribery Policy; guidance on the engagement of consultants; and policies addressing specific high-risk events, including the Beijing Olympics.”

As part of its broader compliance measures, the enormity of Morgan Stanley’s communications to the employee weighed in the SEC’s decision not to charge the firm.
The Role in Learning

As part of the learning process, communications play a pivotal role. On its own, compliance training provides little value to an organization if it doesn’t affect employee conduct.

Message Introduction

The first role that communication can contribute to learning involves introducing an upcoming training. By introducing the training beforehand, an organization:

• Can build interest in a topic before a learner begins the training. This allows the individual to think about the topic and its relationship to the learner’s work so that the learner comes into the training with a greater interest in and identification with the topic.
• Turns the learner’s focus to the topic in preparation for training. This is an example of “associative priming.”
• Is setting up repetition of the message (that should occur again in and after training). By doing so, it provides the learner with multiple touchpoints of the message to better absorb and understand.¹
• Activates short-term memory that, when combined with the upcoming training, begins transfer of the message into longer-term memory.

Post-training communications also activate psychological processes. For instance, repeating a message from training enacts the mere-exposure effect, which tilts the learner’s preference in favor of the message through repeated exposure to it. This is similar to the “Rule of 7” which indicates that people need to hear a message at least seven times before they respond to it.²

Message Repetition

Another important component of learning for which communications is particularly important involves the Ebbinghaus Forgetting Curve. Research finds that learners tend to forget a message over days and weeks unless the message is regularly reviewed (called “spaced repetition”). So, rather than constantly retraining a learner as a lesson slips away, regular communications reinforces the message. Neuroscience explains this effect in that a message needs to be repeated shortly before it exits short-term memory for it to transfer into longer-term memory.

Message repetition works for other reasons, too. This tactic is a hallmark of marketing. One study at Harvard Business School found that managers who repeated their messages and in various ways to their staff advanced their projects more successfully and more smoothly than did other managers. Even those managers with lesser power and authority than others were more successful through message repetition.³

It is in fact message repetition on which marketers spend countless millions of dollars every year to drive their message into consumers’ minds.

Reinforcement of Leadership Commitment

Message retention is not the only purpose for communications. Unless the message has meaning and significance, it’s simply one more in a sea of message noise. But when an organization’s communications reflect leadership’s attention, commitment and priorities, messaging can be particularly powerful. This messaging typically occurs through leadership’s communications via various methods and channels as leaders typically do not conduct training.

Leadership Research

Longstanding research reinforces the influence of authorities on others’ behavior. Studies such as the Milgram experiments, Zimbardo prison experiment and Hofling’s hospital study, among others, demonstrate the power that authority figures have over others. When leaders talk, employees listen.

Studies on leadership communications also reinforce this point. Research by the Ethics & Compliance Initiative found that one of a few critical actions that management can take to reinforce ethical conduct involves communicating about the importance of ethics.4

Likewise, an IBE study found that when employees are more aware of their organization’s ethics program, their perception of ethical awareness and perspectives on its ethical culture improves.5

And multi-year research by CEB (now part of Gartner) on corporate integrity led to development of its Integrity Index which includes “ethical expectations have been clearly communicated to employees” as important to building an ethical culture.6

Cultural Tone and Reinforcement

Another aspect of leadership’s commitment figures in its messaging’s alignment with its organization’s culture. When the message fits with and reflects the workplace culture, it stands a much better chance of success. Employees don’t need to shift their perspective to adopt a new message because it reinforces similar organizational key messages, such as the mission and values. The message is less likely to be viewed as a “program-of-the-month” communication with no real teeth to gain broad acceptance. Rather, it is perceived as “part and parcel” with the organization’s working culture.

Overall Leadership Messaging

Effective leaders understand the preeminent role of communications. They use this tool every day in inspiring staff with the organization’s mission, setting priorities, reinforcing desired behavior and calling out undesired conduct. This is why CEOs write annual report letters, hold organization-wide town halls and speak at community gatherings—they deliver the messages critical to an organization’s success.

Leadership is constantly messaging employees—through formal communications or in informal ways. It’s just a question of what’s in the message. Typically, leadership communicates about business goals, performance objectives and other criteria for business success. Such messages do not always include ethics and compliance. When not included, ethics and compliance messages are overshadowed by other priorities. To strike at least a healthy balance, ethics and compliance communications need regular attention in communications.
The Pivotal Role of Ethics and Compliance Communications

The Leadership Communications Imperative

Formal communications from the top are critical tools to set business goals, focus priorities, and address a host of other objectives. When ethics and compliance are not integral with these communications, leadership indicates that ethics and compliance are a much lower priority.

US regulators have placed so much attention on communications as working hand in hand with training to increase employee compliance and commitment to ethics.

To ensure that employees receive a balanced message – one that seeks harmony between where the business needs to get to and how it gets there – leadership needs to deliver and reinforce this message actively.

Otherwise, all of the other steps it takes to promote ethics and compliance may falter when employees focus exclusively on the other messages that are given priority.

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