



Ethics and Compliance

Two sides of the same coin?

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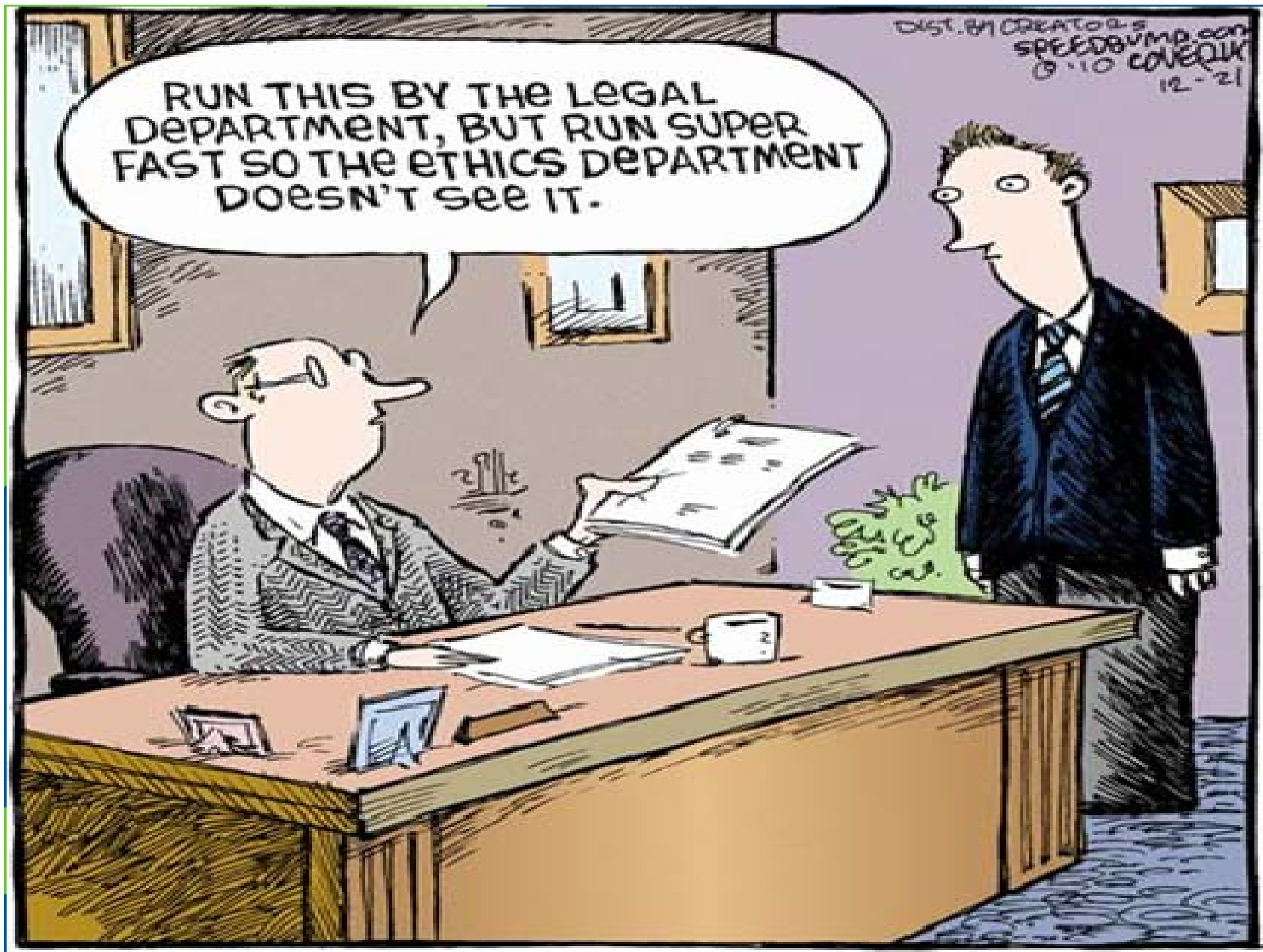
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Discussion points

- Introduction
- Conceptual differences
- Two sides of the same coin?
 - Similarities and dissimilarities
- Shared challenges
- Risk of combining ethics and compliance

RUN THIS BY THE LEGAL DEPARTMENT, BUT RUN SUPER FAST SO THE ETHICS DEPARTMENT DOESN'T SEE IT.

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Introduction



- Addressing ethics risks as important as compliance risks
- Professionalisation
 - USA 1970s – 1980s
 - UK 1980s – 1990s
 - SA 1990s – 2000s

UK

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It is important that all employees should know what standards of conduct are expected of them. We regard it as good practice for Boards of Directors to draw up codes of ethics or statements of business practice and to publish them both internally and in the UK.

Committee on the Financial Aspects of Corporate Governance (1992)

King IV on ethics

King IV: relevant principles

- Principle 2
 - The governing body should govern the ethics of the organisation in a way that supports the establishment of an ethical culture.

Conceptual differences

- “*Ethics is knowing the difference between what you have the right to do and what is right to do.*”

- Coffey R. (2013) [Ethics for community planning](#), US: Michigan State University Extension

Conceptual differences

ETHICS:

1. a system of accepted beliefs that control behaviour, especially based on morals
2. the study of what is morally right and what is not

COMPLIANCE:

1. the act of obeying an order, rule, or request (formal)
2. the state of being too willing to do what other people want you to do (mainly disapproving)

Definitions



- Compliance:
 - *“the fact of obeying a particular law or rule, or of acting according to an agreement”*
- Ethics:
 - *“the application of ethical values to business behaviour”*
 - *“the values and standards that determine the interaction between business and its stakeholders”*

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Combining ethics and compliance?



- “Moral intuition disappears by a context which clouds our intuition and encourages compliance behaviour instead of thinking and sound judgment”

- De Klerk, M. (2015) ‘Should ethics and compliance be combined or separated?’ Available at: <https://www.tei.org.za/index.php/resources/articles/business-ethics/6869-should-ethics-and-compliance-be-combined-or-separated>

Combining ethics and compliance?

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- Compliance = rule-based
- Ethics = value-based
- **Ethics + Compliance = Compliance?**



Differences

“Ethics and Compliance are two separate functions. Compliance is not an art form – it’s about rules, policies, and regulations. Ethics is an art form, and to practice it, you have to understand the business you’re in and how best to communicate its values to employees and other stakeholders.”

Patrick Gnazzo at the February 2012 meeting of the Business and
Organizational Ethics Partnership

Roles

ETHICS PRACTITIONER	COMPLIANCE PRACTITIONER
<p>The ethics practitioner ensures that an organisation conducts its business in a manner that is aligned with the organisational values and standards of behaviour as espoused in its code of ethics.</p>	<p>The compliance practitioner ensures that an organisation conducts its business in full compliance with all national and international laws and regulations that pertain to its particular industry, as well as professional standards, accepted business practices and internal standards.</p>

Similarities

- Safeguarding the organisation
- Debating difficult issues
- Changing business processes
- Identifying and monitoring risk
- Advising, education and training
- Enabling culture and business change
- Dealing with whistle-blowing cases
- Cultivating strong support of the governing body and CEO

Dissimilarities

“The distinctiveness of the skills required, and the different relationship with organisational sponsors implied by each role formulation, makes it unlikely that one individual can perform all activities effectively at the same time.”

Fiona Coffrey

Dissimilarities: Focus

Compliance	Ethics
External and internal standards	Internal standards
Rules, directives, regulations, standards	Values and culture
Required	Chosen
Discipline unethical behaviour	Reward ethical behaviour
Lowest standard	Best practice
Associated with hierarchy	Associated with networks
(Relatively) static	Dynamic
Transactional and directive	Transformational and aspirational
Demonstrative ('talk')	Performative ('walk')

Dissimilarities: Skills set

- Some overlap
- Compliance trained to protect the organisation from legal problems
 - Tend to prioritise a legalistic, black-and-white interpretation of the issues
- Ethics provides a broader perspective
 - Focused on culture, values and ethics

Different mind-set & approach

ETHICS

- Application of **values**
- **How** and **why** you do business
- **Individual judgement** inspired by values
- **Grey** areas
- **Promote** ethical conduct

COMPLIANCE

- Respect of the **law**
- **What** you must do
- **Rules** to follow for each situation
- **Black and white**
- **Punish** misconduct

Shared challenges

- Image problem
- Getting heard at the top



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- Setting the bar too low

“When combining ethics and compliance, people tend to define ethics in terms of legal compliance rather than ethical aspirations, and implicitly endorse a "code of moral mediocrity.”

Trevino, Weaver, Gibson, & Toffler, 1999

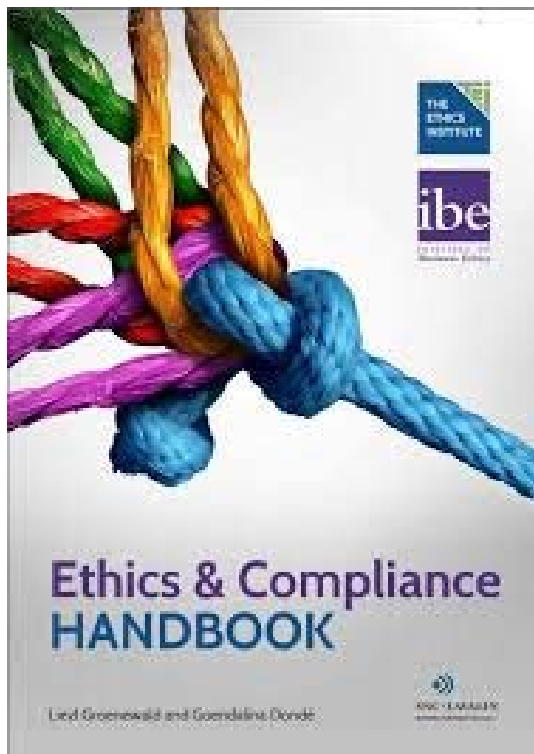
Combining Ethics & Compliance



- Dismissing personal accountability
 - Voluntary chosen standards motive more
- Playing the blame game
 - Individual responsibility vs organisational culture
- Limiting opportunity but not likelihood
 - Rules limit opportunity not likelihood
 - Ethics promotes moral judgement, thereby limiting likelihood

In conclusion

- Separate ethics and compliance functions
- 'Putting ethics first' – compliance will follow



Available at www.tei.org.za



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