

## CEP Magazine – June 2019 Point-of-risk compliance

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By Jeffrey Kaplan

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One of the great challenges of compliance and ethics (C&E) work is imparting knowledge in a way that is fit for purpose, meaning that it will help a company prevent and detect wrongdoing in an effective manner. Although something similar might be said of many types of information in the business world, what makes this challenge especially daunting for C&E is that the information is often boring, technical, unpleasant, and seemingly irrelevant to an employee's job. But the results of several experiments by behavioral scientists may help C&E professionals surmount these obstacles.

As described in a post from the *Conflict of Interest Blog*<sup>[1]</sup>: “Two of the experiments found that being asked to read (and in one case, sign) an honor code shortly before being presented with the opportunity and motivation to cheat significantly decreased the incidence of such cheating. A third experiment found that asking drivers to sign an honesty pledge just prior to their making reports to an insurance company increased the likelihood of honest reporting. The notion connecting these (and similar) experiments is that focusing individuals' attention on pertinent ethical standards immediately prior to their facing a chance to engage in wrongful activity increases the salience of such standards in a way that positively impacts their behavior.”

There are many ways in which this compelling insight might be used to make compliance training and other communications more effective. As noted in the above posting, this approach can be deployed in connection with: “anti-corruption—before interactions with government officials and third-party intermediaries; competition law—before meetings with competitors (e.g., at trade association events); insider trading/Reg FD—during key transactions, before preparing earnings reports; protection of confidential information—when receiving such information from third parties pursuant to a [non-disclosure] agreement; conflicts of interest—around procurement decisions; accuracy of sales/marketing—in connection with developing advertising, making pitches; and employment law—while conducting performance reviews.”

A final suggestion on how to move forward with this sort of training/communications: “When conducting risk (or program) assessment interviews or surveys, compliance personnel should inquire: (a) for any given area or risk, whether there is a need for just-in-time training/communications; and (b) if so, what the specifics of such training/communications should be.”<sup>[2]</sup>

<sup>1</sup> Jeffrey Kaplan, “Behavioral Ethics and Just-in-Time Compliance Communications,” *Conflict of Interest Blog*, January, 29, 2012, <http://bit.ly/2TYgayN>

<sup>2</sup> Jeffrey Kaplan, “‘Just-in-time’ risk assessment,” *Conflict of Interest Blog*, March 9, 2019, <http://bit.ly/2uxgzcm>

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