What cannot be automated: Compliance by design

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Overview

"#Compliance" is one the trending hashtags in the legal industry according to www.ritetag.com[1 p.6] . This is no surprise for both private practice and in-house lawyers, as keeping up with legislative and regulatory inflation and ensuring key rules are applied on the ground is a daily challenge.

Another trend in 2019 compliance is a move towards exploring tech to cope with budget cuts.

Tech can certainly help lawyers deal more efficiently with ever-evolving regulations. Think, for example, about an API that would link directly SAP or any ERP system to the comprehensive lists of applicable international embargoes, depending on where the corporation concerned is based.

But what's the main pain point about compliance? For those who still believe in law, the main friction is getting the business to engage properly with compliance processes and documents.

Policies pile up, documents and best-practice templates go unused and stakeholders are "too busy to care", when not reluctant to engage with a legal division still often not perceived as a solution centre. Most in-house lawyers will be familiar with the gradual drift of people's attention to their phones and their inbox, rather than concentrating on compliance messages which are mostly about everything they can't do.

Automating gift declarations or compliance online training will not solve the main issue about compliance, which is the lack of ownership.

In our experience, the efficiency of compliance programs will depend on the ability to resolve the users' pain points and to articulate users' needs and constraints with compliance rules. Most employees will actually be relieved that someone addresses their main friction points, those they did not dare to raise because of the status quo.

How to get there? User-centricity.

Practical Guidance

We don't believe in recipes but based on three recent compliance projects where we leveraged human-centred design to better manage risks, we can share a few lessons.

"Fear marketing" is over

We're all familiar with those compliance documents putting the emphasis on high risks and sanctions, overusing big red stop signs and stressing rocket high fines. Some of us will also have experienced these brilliant online compliance trainings which are compulsory once a year, and for which the reminder email becomes red and flashing in your inbox if you don't complete it by the deadline. "Your N+1 will be informed if you don't complete the compliance training by X". More often than not, the PA of the executive at stake completes the training...

Fear marketing simply no longer works. So what's the alternative?

How about compliance by values? Compliance explained and promoted through powerful, universal values which resonate with us. This is what ICC Belgium challenged us to do: design a compliance advocacy document that would resonate with SME's CEOs and managers, who do not have a compliance officer. " Be Good, Be Honest, Be Safe[2 p.6] " offers simple and powerful messages, illustrated by practical applications and tools.

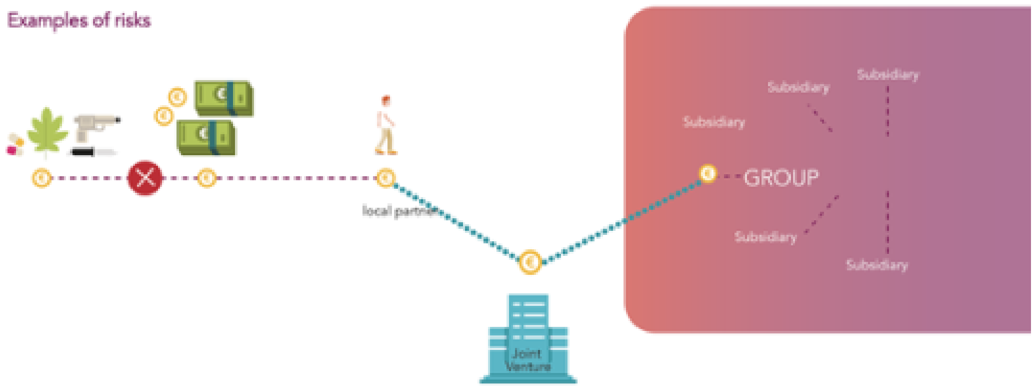
In a distinct project to redesign an anti-corruption program in EMEA, the user workshop revealed that the compliance mind-set was deeply rooted in the group's DNA, but that business users were lacking daily life answers and practical tools. In that case, user-centricity led us to design a compliance toolbox.

Blind signing is the real enemy

Partly due to heavy and authoritative compliance programs and processes, users got used to "ticking the box", or in other words, blind signing codes of conduct and other compliance engagement letters without even reading.

On the surface, the compliance program is applied. Come a great business opportunity in Belarus or Cuba, and it becomes obvious that the business did not know or understand that they had committed not to do business in a country under embargo.

How to end blind signing in compliance matters? Starting from the user's main pain point, which is not seeing the relationship between the rules and their business. That's why in a distinct compliance program for a large decentralized group, we designed "the journey of a euro".



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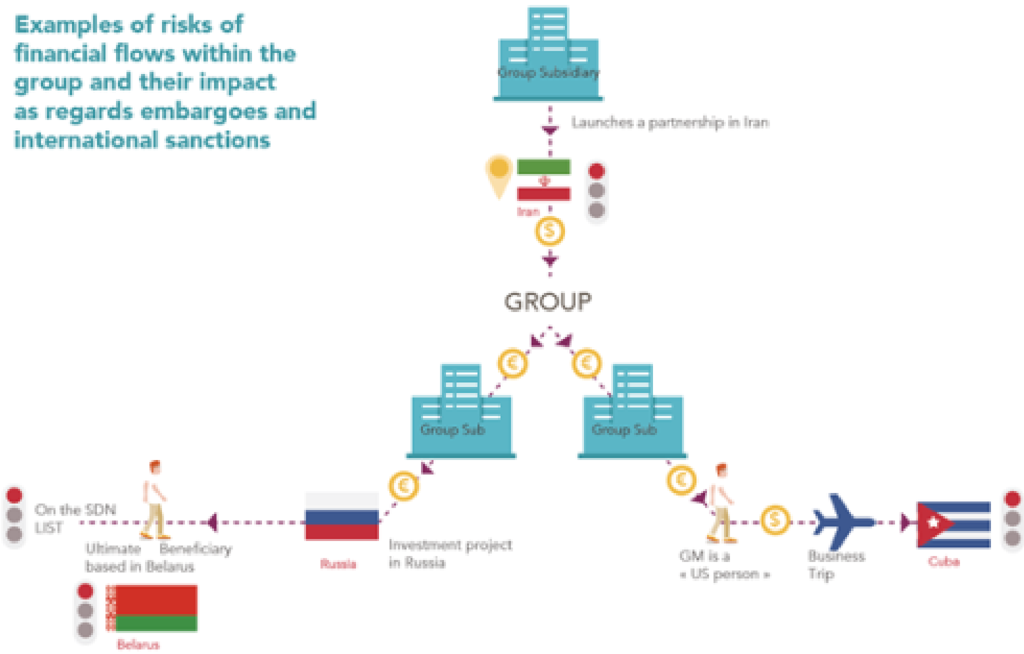
The path money could take before entering one of the subsidiaries, and the impact it could have as regards embargoes and international sanctions.



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Actually, this is nothing really new. The 2013 United Nations ODC Practical Guide on Anti-Corruption Ethics and Compliance Programme for Business advocates a user-centric and collaborative approach, focusing on “preferences of employees” to deliver trainings, as well as “real world examples, guidance and convenient tools which make generic policies relevant on a practical level”.

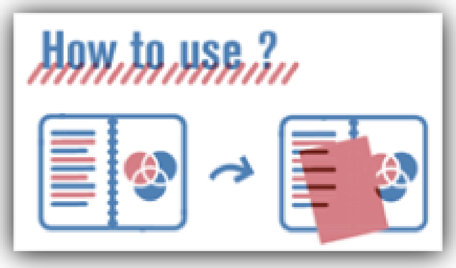
The UN advocates “a participatory approach in the implementation and on-going improvement of the programme creates a sense of ownership among stakeholders. It supports the recognition and acceptance of the anti-corruption programme.”

Nudge is worth exploring

Nudge is a concept in behavioural science, political theory and behavioural economics which proposes positive reinforcement and indirect suggestions as ways to influence behaviour and decision-making, rather than using authority or force.

Designers are familiar with nudge. From aesthetics to UX design and colour patterns, design leverages many ways to influence behaviour.

Designing nudge for compliance is quite new, but worth exploring. For instance, triggering an interaction between the users and a compliance document could have the potential to shift their behaviour - at least to avoid mere rejection and blind signing. This is what we explored with ICC Belgium. The redesign document is a leaflet that can only be read through a red filter that the user has to apply on each page to discover the content or more information.



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Based on our experience and on user feedback in several compliance redesign projects around the world, we know one thing for sure: user-centricity is one of the best shots towards efficiency and better risk management.

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Areas of expertise

Legal Design; Innovation

Education

- DESS, Université Pantheon Assas, France
- LL.M, University of Essex, UK
- Masters in Innovation by Design, ENSCI, France

Memberships

- Admitted to the bar in France

Biography

- Prior to founding Amurabi, a legal innovation by design agency, Marie worked for over 10 years in Magic Circle firms in London, Brussels, Paris and Mexico. She then moved in-house as Europe Legal Manager at Chanel, before becoming EMEA General Counsel at Estée Lauder Companies.
- She obtained a Master's Degree in Innovation by Design at ENSCI, and is heavily involved in research and pro bono access to justice projects.

Notes

1. ^ [p.2] https://ritetag.com/
2. ^ [p.2] https://www.amurabi.eu/compliance-programmes/
3. ^ [p.5] www.amurabi.eu