

On Compliance, Read This, Not the Bloviators

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July 29, 2015



Michael Volkov, former federal prosecutor, author of the widely followed Corruption, Crime and Compliance Blog, CEO of The Volkov Law Group and [an occasional contributor to this column](#), has just written a terrific post on [“Four Signs of a Weak Culture of Compliance and Ethics.”](#) Definitely worth a read and very board-worthy.

When someone like Volkov, a highly respected commentator in the compliance and ethics arena and a veteran of countless federal investigations and prosecutions, decides to write about issues in our field, C&E professionals everywhere should take note. I always learn something from his observations. It is a gift to the profession when he takes time to analyze our issues through the lens of his rich and unique [prosecutorial background](#). (I felt the same way about the work of our [dear departed colleague and investigations expert, Jim McGrath](#).)

As I read Volkov’s excellent post, I couldn’t help but draw a direct comparison to compliance commentators on the other end of the credibility spectrum—let’s call them “The Bloviators.” You know who they are—the self-described experts (including [law firm partners](#)) who feel entitled by their law background to bloviate endlessly on any compliance and ethics topic, without having ever held any meaningful compliance role or spent any time with the profession learning about our issues.

These two ends of the credibility spectrum illustrate the double-edged sword of C&E being a new, dynamic profession on the rise. that is the subject of articles calling CCOs “the New Kings of Wall Street” or “Wall Street’s hot trade” On the one hand, smart people with rich backgrounds and experience who take the time to learn our field can add a wealth of nuance and knowledge to the profession. On the other hand, we attract more than our share of The Bloviators (who never seem to know what they don’t know) and who add only confusion and misinformation to the field, usually served up with heaping portions of pomposity and self-interest.

After all, in the face of the chaos and uncertainty in the business of law right now, why *not* hitch your wagon to the star of this new and rising profession in the corporate limelight? In fact, it is The Bloviators who are responsible for the promulgation of the flawed Compliance 1.0 model (and the marketing of that model to gullible boards), based on their disastrously dumb assumptions that:

1. Compliance is a subset of the legal function.
2. Compliance should be a captive and controlled arm of in-house legal.

The big problem with Compliance 1.0: Compliance is a separate and different subject matter expertise, with a [separate and sometimes conflicting mandate from legal](#). What that means is that compliance driven by legal results in “[DIY Compliance](#),” as in the case of General Motors, where resources that should have been focused on preventing more deaths from a faulty ignition switch appear to have been detoured to serve a legal mandate of secrecy and defense, whether by preventing the use of “Naughty Words” (such as “rolling sarcophagus”), quietly settling cases with victims’ families, or [banning note-taking](#) in certain safety and engineering meetings by company personnel.

The corporate world will be cleaning up the hot mess of Compliance 1.0 for decades. The rise of Compliance 2.0 is happening [just in time](#). Is it any surprise when the compliance mandate for transparency, openness, and finding, fixing and preventing problems gets turned on its head by legal’s drive for secrecy, defense and minimizing legal liability? I’ve said before that any company that has paid law firm hourly rates for the flawed Compliance 1.0 “Bloviator” model should really be asking for a full refund right now!

Donna Boehme is an internationally recognized authority in the field of compliance and ethics, designing and managing compliance and ethics solutions for a wide spectrum of organizations. Principal of [Compliance Strategists](#), a N.J.-based consulting firm, Boehme is the former chief compliance and ethics officer for two leading multinationals. She has been named to The Top 100 Thought Leaders in Trustworthy Business 2014 and 2015 by Trust Across America, is a recipient of the 2014 SCCE International Compliance and Ethics Award for extraordinary contributions to the field, and can be reached at dboehme@compliancestrategists.com.