

CARPE DM

Compliance and Risk Professionals Education @ Duane Morris

THE ART AND SCIENCE OF COMPLIANCE

How do you build a successful compliance team? From hard data and metrics to people skills and creative innovation, chief compliance officers explain why compliance is both AN ART AND A SCIENCE.



**INSIGHTS FROM
DUANE MORRIS' INAUGURAL
COMPLIANCE EVENT**

*Aramark
Comcast
Endo International plc*

CARPE DM

Compliance and Risk Professionals Education @ Duane Morris

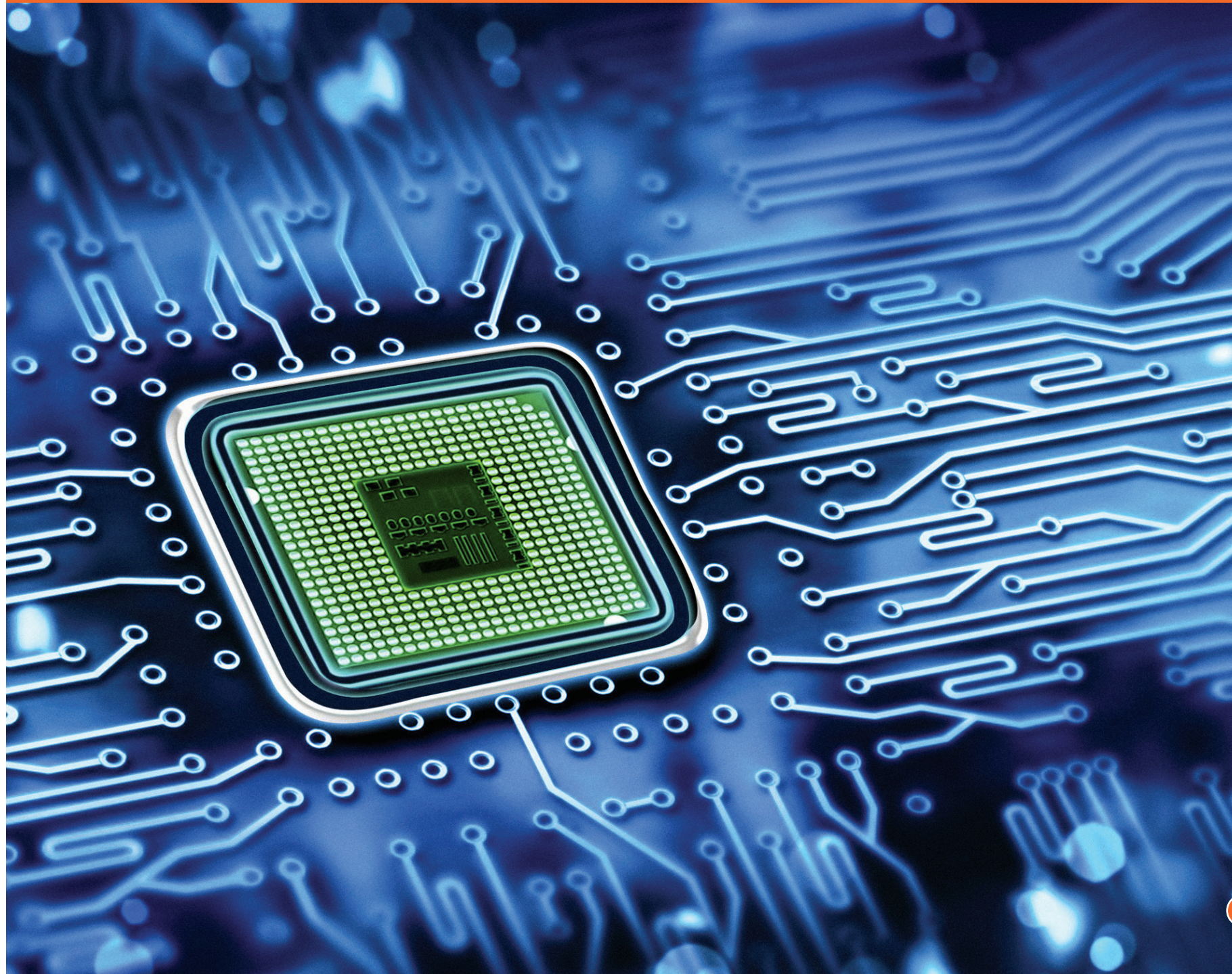


TABLE OF CONTENTS

- 02 INTRODUCTION
- 04 INDEPENDENCE MATTERS
- 06 REINING IN SCOPE CREEP
- 08 THE BUSINESS CASE FOR COMPLIANCE
- 10 THE RIGHT TEAM FOR THE JOB
- 12 SPEAKER PROFILES
- 13 ABOUT DUANE MORRIS

INTRODUCTION

Shortly after Katherine Kelton, an alum of Duane Morris, landed the role of Chief Compliance Officer at Aramark, she logged into the Duane Morris Alumni page on LinkedIn to seek out benchmarking from peers. Her query led to the creation of the Carpe DM: Compliance and Risk Professionals Education program. The inaugural event, held in October in Philadelphia, brought together executives and on-the-ground professionals in the compliance space across industries to learn and to network. A general panel on trends was followed by three different breakout sessions—all geared toward tackling pain points and offering survival tips. Speakers from Comcast, Endo International plc and Corporate Executive Board (CEB) joined Kelton on the dais.

Said one attendee: “Usually compliance events are segmented by industry. This event was great because I could learn from folks in different industries and realize that when it comes to a lot of compliance issues, I’m not alone.”

The compliance function is neither an art nor a science, but its practitioners benefit from the concepts behind both. Compliance professionals collect and analyze metrics and hard data, but they also draw from a variety of brush sizes and hues when painting a picture of that data for their organizations. The palette of skills and personalities has grown: Compliance staff now more than ever include those skilled in project management, in addition to auditing and law. And with communication and relationship-building key skills for success, today’s compliance officer should strive to develop a colorful and diverse toolbox.

What follows is a closer look at the conversation.

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INDEPENDENCE MATTERS

Moderator Bill Hughes of CEB began by citing CEB's latest 2014 data on independence. "Fifty-eight percent of compliance programs are still located in the legal department and 22 percent are independent," he said. "So here are my two questions for you-all: (1) What does it mean to be an 'independent function' and (2) should compliance teams be pushing to move in that direction (away from the GC's scope of responsibility)?"

Said Jon Smollen, Executive Vice President and Chief Compliance Officer at Endo: "The answer

varies based on industry and where you are in program development. The OIG and DOJ believe the compliance function should be independent. You see more independence in pharma than other industries. I don't think it can't emerge out of a legal function, but there are benefits to independence. You have your own seat at the table with your board. In addition, when you're in the compliance function, as opposed to the legal department, you have a little more freedom to think about the types of resources you need, like hiring non-lawyers."

"It really depends on senior management and culture at the company," said Jennifer Heller, Comcast's Vice President, Chief Compliance Officer and Senior Deputy General Counsel. "Is there real buy-in for the compliance function? Ours sits within the law department. I report to the GC and he is the biggest asset and advocate for our program. I think objectivity, rather than independence, may be a better focus. The objective person in a compliance role can look at the company, identify weaknesses and work to control them to get to a better solution."

"If it's working," agreed Smollen, "don't mess with it."

Added Katherine Kelton at Aramark: "At a small company, you might not have a choice. At a company of our size, you can afford to have two functions. To Jen's point, if you have the advocacy of the GC, that's fine. Not every company has the CCO at the same level in the organization. As long as you have understanding from the rest of the executive team of your role, it works."

Moderator Bill Hughes of CEB leads the conversation with speakers Katherine Kelton of Aramark, Jon Smollen of Endo and Jennifer Heller of Comcast.



REINING IN SCOPE CREEP

“One thing many compliance teams struggle with is scope creep,” noted Hughes. “If you have a strong compliance team, a lot of the things nobody wants tend to end up as compliance responsibilities,” he said. While most compliance programs assume ownership of some programs, including training, code of conduct, policy management, compliance risk assessment, hotline management and investigations, others, such as data privacy, records management and trade compliance, tend to fall to the compliance officer’s desk. Hughes asked, “What’s one thing on your plate that you don’t think should live in compliance?”

Said Kelton: “It’s a very good question. Our heat map currently contains risk areas that date back to our original risk assessment. So I have to analyze it regularly to see if I can streamline it. You have to limit scope around the biggest risk,” she said. For example: Treasury risk. “That’s handled by internal controls,” said Kelton. “Perhaps I don’t need to report on that.”



“You have to limit scope around the biggest risk.”

Scope creep can come with the territory of having a team of problem spotters. “It’s really hard not to have scope creep when you have a strong compliance team that spots weaknesses and wants to fix them,” said Heller. “But remember, it’s about risk prioritization and what resources are available. Make sure you are first using your resources to manage your highest areas of risk.”

“Where I see the scope creep is in managing a set of our risks, and looking through our lens and seeing a broader issue,” said Smollen. “T&E is the classic one. From a compliance perspective, Endo has to monitor travel and expenses as they relate to dealing with health professionals, but that doesn’t mean we are ‘owning’ the broader T&E function. You want to help the other parts of the organization,” he continued, “but there needs to be infrastructure to protect against scope creep.” Another example, Smollen said, is that “we own training, but it doesn’t mean I can own every part of the training structure across the whole company.”

THE BUSINESS CASE FOR COMPLIANCE

"Imagine," offered Hughes, "you have a new CFO and you're sitting in his or her office discussing next year's budget. You're making a case for a slight budget increase, but the CFO comes from a company that spent far less on the compliance and ethics function. Your CFO wants a 15-percent budget cut and asks, 'Why are we spending so much on compliance? We haven't had any major issues in years. Now that we've built the program over the last few years and established effective controls, I think we can put these dollars to better use elsewhere.'"

Hughes asked the panel: "What are one or two bullet points you might use to make your case and defend your budget?"

"My first thought is to focus on the return on investment," said Heller. "Anything that you would spend toward compliance would be made back on some scale; inevitably, a government settlement would cost a heck of a lot more than you are spending on compliance. An ounce of prevention is worth a pound of cure.

Also, businesses evolve and change. Our company today is different than it was three years ago, and I know it will be very different next year and three years from now." Compliance budgets need to be prepared for new compliance issues.

"Your CFO is going to be interested in how you grow the business," added Smollen. "In order to manage the risks of the growth strategy, a compliance program can't ever be static. Around budget time, I try to be in tune with the business strategies." One tip, he offered, is to try to use the information compliance gathers to help the bottom line. "We have so much data on how the business operates, and we see business operational trends, so maybe that data can help business operators to work more efficiently."

Kelton noted: "In the absence of a non-compliance event, it can be difficult to make a business case. You can say, here's what everyone else is doing. And here are some clear examples of what can happen if you don't have the right resources in place."





Kelton and Heller lead a breakout session on risk.

THE RIGHT TEAM FOR THE JOB

Traditionally, Hughes pointed out, compliance functions have grown out of the legal department and typically have been staffed with lawyers. “But,” he said, “the toughest challenges for compliance teams—creating training that is sticky and memorable for employees; influencing employee behavior; building a strong corporate culture; and segmenting and managing risk in the company’s third-party base—maybe those things require skills other than legal knowledge.”

What’s the most valuable non-legal skillset or background for someone on a compliance team? The speakers agreed that a variety of non-legal skills help.

“Much of the day we are not doing substantive legal analysis,” said Heller. “Your well-rounded

team needs a lot of types of skills. The ability to collaborate and partner with all different types of people: A really good writer. A strong data analytics person. Someone who can take a project from start to finish.”

Kelton agreed: “I have someone who is an analyst with an audit background and a project management skillset, which has been extremely helpful. I also have some teams that have lawyers, so for the first time, I have lawyers reporting to me. We have historically hired operators. Now we are a bit of a mix.”

A variety of skills is important, concurred Smollen. “I’ve looked for people who come out of the business, and have good communications skills. Some of it depends on where you are in

your evolution.” A smaller compliance team may need a heavier communication-based skills set to convey the business case. A late-stage team may need more project management.

A recent CEB poll revealed that business-unit partnering skills, Hughes said, like the ability to build relationships, were the highest priority for compliance professionals.

“How do you get better at that?” Hughes asked.

Said Kelton: “Have your team build trust with operators by having them solve operational problems. Insert yourself in meetings. Sit with COO staff so you are hearing it all. Raise your hand and volunteer.”

“The biggest thing your people can do is just listen,” said Smollen. “Get people comfortable

talking about things.” Spend time with staff in other areas, he said, noting that in the pharma industry, compliance professionals might do a ride along with sales reps. “You can see what it’s like to walk in their shoes and they sense that you’re with them. You can give them feedback that is less adversarial, and later, they might pick up the phone and call you.”

Heller underscored these points. “These skillsets are needed not at just the top, but all the way down and sideways in an organization. Build relationships with peers in HR and internal audit. Watch and observe. Give those people at the right times the opportunity to lead a meeting, or follow up and say, ‘Can I help with this?’”

“Give a little first,” said Heller. “It’s a crucial skill.”



John Ryan, General Counsel of Unilife and Duane Morris alum, continuing the conversation.

SPEAKER PROFILES

BILL HUGHES is Associate Director, Advisory Services, at CEB, a leading member-based advisory company.

JENNIFER HELLER is Vice President, Chief Compliance Officer and Senior Deputy General Counsel for Comcast Corporation. In this role, she is responsible for leading the internal processes for promoting and ensuring Comcast's compliance with laws, regulations, company policies and contracts, including chairing its enterprise-wide Compliance Committee that oversees its compliance risk management and internal complaint reporting programs. She is also responsible for formulating and implementing Comcast's policies and procedures, including its Code of Conduct, and making sure they are communicated and trained upon across the company.

KATHERINE KELTON is the Chief Compliance Officer for Aramark, where she is responsible for the ongoing design and monitoring of Aramark's global compliance program. During this tenure, Aramark was ranked for the fourth and fifth times as one of Ethisphere's "World's Most Ethical Companies." Prior to taking on this role in 2013, she was Vice President of Compliance for Aramark Healthcare, and before that, she was an Assistant General Counsel supporting Aramark Healthcare. She is an alum of Duane Morris.

JON SMOLLEN is Executive Vice President and Chief Compliance Officer of Endo International plc. In this role, he is responsible for the strategic direction and operations of Endo's corporate compliance program. Jon previously was Vice President and Chief Compliance Officer for Siemens Healthcare USA, with responsibility for its laboratory diagnostic and diagnostic imaging businesses in the U.S. Prior to Siemens, Jon held a number of leadership positions at Wyeth, including Vice President, Commercial Excellence and Compliance and Chief Privacy Officer, and established several global programs to strategically address existing and emerging industry requirements.

ABOUT DUANE MORRIS

Duane Morris LLP, a law firm with more than 700 attorneys in offices across the United States and internationally, is asked by a broad array of clients to provide innovative solutions to today's legal and business challenges. Carpe DM is a program that connects compliance, ethics and risk professionals for networking and benchmarking opportunities.



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