

Compliance Training Workshop

Section 9 (Re)Identification of Training Needs

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Content

Identification of training needs via:

1. Risk assessments
2. Remediation efforts and root cause analysis following investigations
3. Input from employees, managers, and business partners
4. Results of auditing and monitoring
5. Other techniques
6. Attendee activity/workbook exercise

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(Re)Identification of Training Needs

Section 9

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Risk Assessments



U.S. Department of Justice Evaluation of Compliance Programs

“The starting point for a prosecutor’s evaluation of whether a company has a well-designed compliance program is to understand the company’s business from a commercial perspective, how the company has identified, assessed, and defined its risk profile, and the degree to which the program devotes appropriate scrutiny and resources to the spectrum of risks.”

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Risk Assessments

U.S. Department of Justice Evaluation of Compliance Programs

“Risk-Tailored Resource Allocation – Does the company devote a disproportionate amount of time to policing low-risk areas instead of high-risk areas, such as questionable payments to third-party consultants, suspicious trading activity, or excessive discounts to resellers and distributors? Does the company give greater scrutiny, as warranted, to high-risk transactions (for instance, a large-dollar contract with a government agency in a high-risk country) than more modest and routine hospitality and entertainment?”

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Risk Assessments



U.S. Department of Justice
Evaluation of Compliance Programs

“Risk-Based Training – What training have employees in relevant control functions received? Has the company provided tailored training for high-risk and control employees, including training that addresses risks in the area where the misconduct occurred? Have supervisory employees received different or supplementary training? What analysis has the company undertaken to determine who should be trained and on what subjects?”

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Risk Assessments

U.S. HHS OIG Effectiveness Tool Kit

Measure 4.8

What: The organization bases training for individuals who are designated to be in high-risk positions on a formal process for assessing risk and evaluating control vulnerabilities. The organization develops issue-specific training based on the results of the risk assessment and identified internal control weaknesses.

How: Conduct a review of the process the organization has for assessing risk and evaluating control weaknesses. Review the training plan and training materials to ensure the training addresses those issues that are of significant risk and that the organization may be vulnerable to.



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Identification of Training Needs from Employers, Managers, and Business Partners



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Employee Input

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Measure 4.21

What: The organization solicits feedback from employees on compliance training needs. Employee recommendations are included in training modules disseminated.

How: Conduct document review to ensure employees surveyed for their training/education needs and what they feel they need training on. Interview staff to assess effectiveness of training plan? Confirm that training considers employee feedback.



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Due Diligence Questions

- Anti-bribery/foreign corruption best practices suggest questioning potential business partners during due diligence
- Many companies use questionnaires/checklists (see <https://www.transparency.org.uk/wp-content/plugins/download-attachments/includes/download.php?id=1001> as an example)
- Assessing potential business partners responses—their level of understanding is often evident based on these answers
- Where a lack of understanding is evident, give that business partner focused education on the areas where gaps exist



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Identification of Training Needs via Results of Auditing and Monitoring

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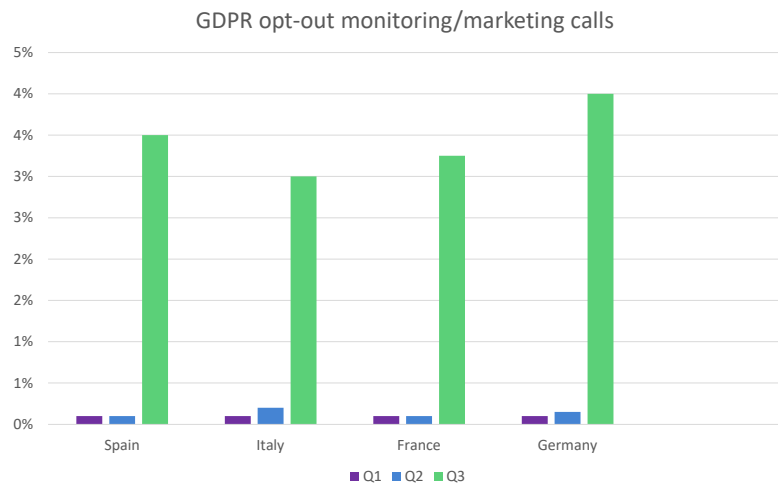
GDPR Auditing/Monitoring

The screenshot shows a website page with the following elements:

- Header:** "GDPR.EU" logo, a search bar, and navigation links: Home, Checklist, FAQ, GDPR, News & Updates.
- Main Article:** "Italy fines Eni Gas e Luce €11.5 million for multiple GDPR violations". The article text states: "On Jan. 17, 2020, the Italian Supervisory Authority (ISA) announced it had imposed two separate fines of €8.5 million and €3 million on Eni Gas e Luce (EGL), an Italian electricity and gas supplier. These fines were in response to two distinct GDPR violations. The first fine (in Italian), for €8.5 million, was served because EGL was found to be illegally processing personal data by making marketing calls to individuals that had opted out of receiving such promotional calls. The Italian SA also determined the company did not follow the specific procedures that required it to verify the public opt-out register. These actions are clear violations of Article 6 and Article 13 of the GDPR. In addition to the fine, the Italian SA is forcing EGL to put in place processes that will prevent it from making similar calls in the future. This includes forcing EGL to verify that it has a customer's consent before it contacts them as a part of any promotional drive. They are also banned from acquiring data from any third parties, namely list providers, that could not prove that the customers had consented to having their data shared. The second fine (in Italian), which totaled €3 million, was to sanction EGL's conclusion of unsolicited contracts (or, basically including new customers on EGL contracts without informing those individuals that EGL was now their energy company) and their use of inaccurate and, at times, forged information on those contracts. This is a clear violation of Article 6 and Article 13 of the GDPR."
- Related articles:** A list of three links: "What are the GDPR Fines?", "Art. 34 GDPR - Communication of a personal data breach to the data subject", and "Art. 68 GDPR - European Data Protection Board".
- Forms and Templates:** A list of three links: "Data Processing Agreement", "Right to Erasure Request Form", and "Privacy Policy".

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2020 Audit/Monitoring Results



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Small Group Discussion



- Separate into groups of 2 or 3 individuals
- As a small group discuss examples of audit or monitoring results that would give rise to training ideas or needs
 - Possible topics or examples might come from auditing business partners in context of anti-bribery/foreign corruption due diligence, data/privacy audits, or Board/Governance reviews
- Choose one of the examples discussed to give a 2- or 3-minute presentation to the rest of the class



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Identification of Training Needs via Remediation Efforts and Root Cause Analysis Following Investigations

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Q3 GDPR—Root Cause

Root Cause Analysis:

- Based on error rates, additional investigation was taken to determine cause
- During Q3 the experienced marketing analyst began her maternity leave
- A less knowledgeable and less experience marketing employee began serving as back-up
- Review of the Q3 rise in errors was attributed to the less experienced back-up employee who wasn't familiar with the regulations.



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Q3 GDPR—Root Cause

Training Implications:

- Training for back-up personnel in marketing regarding GDPR regulations and requirements
- Training for supervisors—train supervisors assigning back-up personnel to only choose qualified back-up employees or identify training needs of back-up personnel who don't have the expertise already
- Any other implications you can think of?



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Compliance Failures

U.S. HHS OIG Effectiveness Tool Kit

Measure 4.10

What: The organization evaluates policy and compliance failures and provides re-education to applicable staff.

How: Audit files of known policy or compliance failures to ensure re-training is considered as part of corrective action. Audit to ensure the re-training is completed. Track for reoccurrences to determine the effectiveness of the re-training and employee understanding.



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Identification of Training Needs via Other Techniques

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United Nations



“...training employees was identified as an important measure for effective anti-corruption prevention to be introduced on the micro level. The drawback for smaller companies is that they lack the financial resources that often do not allow them to develop appropriate training materials and face time constraints that prevent the conduct of regular training in an effective manner. ***For that reason, other institutions such as business associations, chambers of commerce, or NGOs could play an important role in facilitating that process.***”

The Global Programme against Corruption of the
United Nations Office on Drugs and Crime and the Private Sector Development Branch of the United
Nations Industrial Development Organization

<https://www.unodc.org/unodc/en/corruption/unac.html>
https://www.unodc.org/documents/corruption/Toolkit_ed2.pdf

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Sample Organizations

- <https://www.transparency.org/en/>
- <https://www.traceinternational.org/>
- <https://www.hcca-info.org/>
- <https://www.corporatecompliance.org/>
- <https://oig.hhs.gov/compliance/compliance-resource-portal/>
- <https://www.aba.com/banking-topics/compliance>

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End of Section Slides

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Activity/Workbook Options

1. Use the internet to view or download <https://www.transparency.org.uk/wp-content/plugins/download-attachments/includes/download.php?id=1001>

Have attendees review due diligence practices and pick a question or area that a potential business partner might not understand. Spend 10 minutes developing a high-level outline for a training session on one of the areas chosen.



Activity/Workbook Options

2. US DOJ Evaluation of Compliance Programs document (have printed in workbook or have attendees obtain online)
<https://www.justice.gov/criminal-fraud/page/file/937501/download>
 - Have attendees review the four bulleted topics in Section C.
 - Have attendees spend 10 minutes to provide “best practice” answers or a “failure” example for each of the questions found in one of the four bulleted points.
 - Consider having attendees present their work to the rest of the class.