

ALLEN & OVERY



Presenting our Compliance practice in Belgium

2015

The increasing importance of compliance

In recent years, and in the wake of various corporate scandals, regulators and lawmakers have been enacting a growing number of local and global regulations with which organisations need to comply. Non-compliance can have very serious, and sometimes devastating, commercial consequences.

Against an increased level of regulatory scrutiny and ethical expectations, and given the financial and reputational damage that results from corporate scandals, compliance has moved up the corporate boardroom agenda.

As a result, ensuring compliance with both local and international laws should be part of the ordinary, day-to-day activities of a company. In-house counsel, as well as compliance and HR officers in a wide range of industries are increasingly confronted with the need to develop a more formal “compliance policy”, introducing effective legal risk management processes covering a wide range of areas, from antitrust to anti-corruption and bribery, and from employee protection to data protection and privacy.

More and more companies are seeing increased value in investing in strong compliance programmes because these programmes not only prevent infringements, but may also serve to mitigate fines if an infringement has been committed. A tailored compliance programme, targeting the business’ risk areas, is important in helping companies navigate the pitfalls without imposing unnecessary restrictions.

Of course, embedding these compliance policies into a company’s culture requires further, practical measures. Having compliance policies but not enforcing them may be almost as harmful as not having them at all. The most effective way of ensuring compliance is to train employees in the basics and how they apply to the business. Regular health checks and clear procedures for reporting concerns are also critical to promoting effective compliance.

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Questions each company should ask itself

What are the main areas of risk for your business?

Does your company have a compliance policy in place?

Are all areas of risk covered by it?

To whom does the compliance policy apply?

Is the compliance policy part of your company culture?

Has it both been endorsed by senior management and adopted by your employees working in the field?

Is the compliance policy legally enforceable?

How do you monitor compliance?

Does your company have reporting procedures for potential breaches?

Is everything in place in order to take swift disciplinary action for breaches of the compliance policy?

Does your company know how to enforce the compliance policy in its dealings with business partners?



Why Allen & Overy?

Our dedicated Compliance team offers you:

Advisors who
have specialist
expertise

Allen & Overy offers compliance advice with few other firms in Belgium being able to combine the quality of individuals, specialist knowledge and depth of resources and coverage. Our team is one of the largest dedicated compliance teams in Belgium, covering all aspects of compliance, including employment issues, data protection issues and enforceability towards third parties.

Advisors who
think ahead

Our in-depth experience provides a platform for focussed and targeted compliance advice as it allows time and resources to be directed to the areas of real risk. We assist clients in developing a strong culture of compliance through training, policies and counselling. You will benefit from our expertise long before your company is confronted with any regulatory investigation. Our experience also means we can develop policies that will not become a hindrance to your daily operations.

Advisors who
can manage
expectations

Compliance policies involve a multitude of competing interests which all have to be considered. Our experience means that we are well placed to assist our clients in managing the immediate and long-term expectations of their directors and employees, as well as meeting the requirements of public regulators.

Advisors
who understand
multi-jurisdictional
dynamics

In an increasingly globalised world, compliance issues are often not confined to single jurisdictions. Differences between legal systems may affect the possible solutions. The global reach of our practice is both geographic and cultural. Our ability to deal with complex cross-border compliance projects enables our clients to tailor their compliance policies to ensure that they are appropriate in all relevant jurisdictions.

A flavour of our experience

We provide compliance advice to our clients on the legal issues which most regularly impact their business, as well as helping them navigate the maze of legislation and best practice codes relevant to their business.

Our Belgian Compliance team has built up a significant track record of developing global compliance programmes

DEVELOPMENT AND TRAINING

Our team has been advising a leading automotive parts supplier on the setting up of a global compliance programme on competition and anti-bribery issues, and on conducting training in 25 jurisdictions. To date we have mobilised and coordinated a team of over 50 lawyers in our own firm, as well as over 25 lawyers within our network of preferred local counsel.

We have coordinated this project as a joint initiative between our Competition and Litigation departments, who have together delivered training on competition, anti-bribery and anti-corruption issues.

Critical to overseeing a programme of this scale – across 25 jurisdictions in Europe, Africa, Asia and the Americas – are our sophisticated project management tools and our international network of competition specialists – one of the largest of all the major law firms.

CRIMINAL DEFENCE

Some agents of a client were accused of committing fraud when selling products to customers, enriching themselves with the commissions paid by our client. Criminal proceedings by customers were initiated against our client, among others.

As a defence, we invoked the clients' compliance policies on customer information. We were also able to demonstrate that those policies were actively enforced through training and information campaigns within the organisation. The defence was successful and the client was acquitted.

and policies for both Belgian companies and multinational corporates, including conducting or assisting with the training of company employees as well as conducting investigations of suspected breaches and advising them how to deal adequately with these breaches.

INVESTIGATION

Following an in-depth internal investigation, one of our clients found out that a managing director of a local subsidiary of the client had been involved in bribery of the local customs authorities. In order to conduct the investigation, the client had to review a large number of emails in various countries.

We advised the client on how to minimise the data protection risks resulting from this review in the framework of the data protection policies in place. In addition, we assisted the client in the dismissal of the relevant employee. Ensuring compliance with data protection laws was an important element in mitigating the risk of unlawful dismissal.

Both our understanding of the data protection risks in a multinational corporate environment and our ability to line up an integrated team of data protection and employment lawyers has proven to be a key element in this matter.



Key contacts

Contact one of our Belgian Compliance team members to learn more about creating and enforcing a compliance culture in your company:



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