

**The Covid-19 virus paradigm shift:
Building a new culture of compliance**

By Marius Meyer

Over the last century, the narrative in the business world has been that business is about one thing only, and that is profit. And of course, profit is essential to grow and sustain a business. Fortunately though, some responsible employers have done excellent work in the area of compliance in recent times. Many of them have employed full-time compliance managers to ensure that compliance is integrated into the overall governance, risk and compliance framework of the organisation. In addition, the Compliance Institute of Southern Africa has done exemplary work to professionalise the field of compliance as a professional discipline of practice in organisations. Moreover, the King IV Report and Code on Corporate Governance for South Africa has made compliance a key governance requirement, and most top companies have committed to improve in the area of compliance. Be that as it may, in general, for companies not listed on the JSE, compliance to legislation, rules, codes and standards were often seen as “necessary evils” to stay out of trouble and to prevent unnecessary fines or law-suits. Unfortunately, some employers continued with lip service to compliance, and on the other extreme there are managers who are blatantly non-compliant to laws and regulations.

Since the birth of compliance frameworks globally over the last two decades specifically, the overall narrative was that compliance was seen in a negative light in the private sector, especially in small, medium and non-listed companies who don't employ compliance managers. The cost of compliance was highlighted as a major obstacle in this regard. On the other hand, government believes in compliance and they do spend a lot of time and effort in generating new pieces of legislation and regulations. Whether all these laws make sense and are properly thought through is an entire different debate, and of course the commitment and capacity of government to enforce its own laws can be questioned. However, there are ample opportunities for consultation and not a single law in times of stability has been promulgated without extensive consultation with all stakeholders, including the private sector. Certain sectors such as banking and mining have stepped up and created strong compliance regimes, and developed a strong track record using compliance as a framework for good corporate governance and sound business practice. Despite these efforts of ensuring compliance, most of them will admit to human error and that things do go wrong from time to time in the event of non-compliance.

Now with Covid-19 and in particular the government's strong stance on fighting the virus, we have ushered in a new period of national and international compliance. The President immediately announced compliance to the Disaster Management Act. Even when good and very necessary laws were made in the past, government was immediately criticised for not having the will, nor the capacity for enforcing laws. Hence, non-compliance has become the norm in many areas. Thus, a culture of non-compliance has been created and maintained for a long period of time. With the outbreak of the Covid-19 virus, the rules of the game were made overnight and immediately implemented and enforced. This time around, and given the disaster situation, there was no time for consultation, although top business and government leaders and scientists were consulted before any announcements were made, including the decision to declare the lockdown. In fact, it may be argued

that society was not ready for the regulations, and did not believe that government had the will and capacity to enforce the regulations. This assumption was proved wrong, and despite some setbacks here and there, within days the number of arrests were more than the virus infections. Thousands of people were arrested and the SANDF and SAPS who were criticised in the past for being inefficient and being “too soft,” were now labelled as “too aggressive” and even “inhumane” in their response to non-compliance of the regulations. While there were indeed several incidents of rogue behaviour by the armed and police forces, one thing was clear: They were not going to tolerate non-compliance. Furthermore, when Minister Stella Ndabeni-Abrahams also violated the lockdown regulations by visiting a friend and former deputy minister for lunch she was strongly reprimanded by the president and put on special leave for two months and the law allowed to take its course.

Therefore, while South Africa was previously accused of being ill-disciplined, a new tone of serious discipline and compliance was set by the President and his Ministers. Admittedly, not all the regulations made sense, yet they were enforced, or relaxed after complaints were received from the public and other stakeholders. Two good examples of regulations being relaxed was to allow children of divorced parents to rotate between parents, as well as the lifting of the ban to export wines to overseas markets. Notwithstanding the need of providing transport to essential workers, allowing taxis to continue transporting masses of people without proper physical distancing seems to contradict the guidelines of the Department of Health. We can only hope that people will not pay the price of this decision with their lives.

There are several other examples of non-compliance such as excessive price inflation of certain products and retailers not protecting their staff and customers. For instance labour inspectors, police and officials from Economic Development, Tourism and Environmental Affairs (EDTEA) raided one of the country’s biggest call centres in uMhlanga after scores of disgruntled employees took to social media, alleging the company was not compliant with the Covid-19 regulations. EDTEA received more than 100 complaints from employees at CCI South Africa which employees 9000 people at various sites. The complaints were mainly about physical distancing and the provision of masks and hand sanitizers in the workplace. Businesses must protect their employees and customers. There were more than 100 employees in the building and social distancing was not being practiced. In another case, nurses in Welkom got shot at by the police for protesting the lack of personal protective equipment and other resources at Bongani Regional Hospital in Welkom (IOL News, 31 March 2020). The issue of the health and safety of all health employees needs to be a national priority requiring urgent attention at all health sites throughout the country, as well as all other essential employees being potentially exposed to the virus, such as retail staff, police officers, and members of the defence force.

While we are all faced with the reality of a life or death situation because of the Covid-19 virus, it is evident that we need to create a new culture of compassion and compliance in South Africa. It starts with leadership as compliance champions in government and business. While most workplaces have been compliant in the area of general safety before the lockdown, most workplaces and public places were non-compliant when it comes to hygiene. A positive consequence of the lockdown has been the renewed focus on personal hygiene, but we now need a massive awareness campaign about hygiene in the workplace. Most workplaces have a poor track record when it comes to hygiene. Just think about the number of times you can’t find any soap when you want to wash your hands after using a work or public toilet. This should be another regulation for government to put in place. Any toilet facility without sufficient toilet paper, soap and hand drying equipment should become illegal and also be locked down and fixed.

South Africa and indeed the world will not be the same again after the coronavirus pandemic. The Covid-19 regulations ushers in a new period of compliance. The 21 day lockdown is probably the first time in the history of the country in which compliance became the most important imperative in our

personal and business lives. It was necessary to put the health of people first and to prevent the rapid spread of the virus. Whether these efforts were successful in turning the tide on flattening the curve, and sustaining the trend, remains to be seen. Data is key to implementing effective interventions.

What we do know is that the importance of compliance should never again be underestimated. But a huge task lies ahead for all us and that is to create and embed a culture of compliance so that it becomes a way of life at home and organisations. Most South Africans must be praised for changing their behaviour by not greeting other people without any physical touch like in the past. This is not only a change in behaviour, it is a change in culture.

Compliance is about good practice, disciplined and consistent behaviour, respect for people and preserving humanity. Governance, risk and compliance has become an imperative for all organisations in the private and public sector alike. Its success will depend on whether we can develop and maintain discipline in complying to all laws, rules, codes and standards, thereby becoming better individual and corporate citizens putting people first in our thinking, behaviour and actions at our homes, work and society at large. If compliance is seen as a new way of caring for other people, we have created a new society, and ironically Covid-19 has forced us to make this important paradigm shift in creating a culture of compliance.

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