



Current Compliance Challenges and How to Address Them from an Expert Perspective

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Abstract

Compliance departments face a variety of challenges in these days. Constantly new legal requirements and new regulations give an idea of the problems compliance managers in companies are confronted with. The aim of this paper is not only to analyze the various challenges in the area of compliance, but also how these can be met in practice. The author uses the qualitative research approach of expert interviews and underpins the research with the theoretical derivation using the resource-based view (RBV) and dynamic capabilities approach. The results show that the experts' opinions on the challenges are largely in agreement, while the different ways in which the experts approach the problems suggest that there does not seem to be one right solution for tackling the issues in the future. It is particularly interesting that possible approaches such as "creativity", "flexibility" and "agility" also correspond with the theoretical derivation of the topic, according to which dynamic capabilities seem to be decisive for companies' competitive advantage in an ever-changing environment. The paper contributes to a better understanding of the current compliance situation in practice and at the same time points out very interesting new research needs, e.g. how possible solutions to overcome compliance challenges could be implemented.

Keywords: compliance challenges, expert interviews, resource-based view (RBV), dynamic capabilities

1. Introduction

The central focus of compliance research in general refers to the question how to increase compliance intention of individuals in a targeted manner, i.e. which factors must be implemented by companies to avoid violations and sanctions due to non-compliant behavior. Literature describes compliance and ethics programs as a chance for competitive advantage (Peterson, 2013), and thematizes the negative cases of compliance programs failing (Barry, 2002; H. Chen & Soltes, 2018). However, there is a tendency to leave out the important aspect, that analyses in this regard always represent only a "snapshot", while reality is volatile and complex due to various external influences. Companies cannot influence these external factors but can react to them with available resources. The Carbon Border Adjustment Mechanism

(CBAM) regulation of the EU represents a current example. The CBAM regulation refers to the risk of "carbon leakage", i.e. the shifting of emissions to other countries outside the EU with less stringent climate targets. It is to be countered by imposing a reporting obligation on companies regarding the embedded emissions of imported goods and requiring them to purchase CBAM certificates for carbon-intensive imports of goods in the future (European Union, 2021). On October 1st 2023 the CBAM regulation entered into force in its transitional phase and will be fully implemented by 2026 (European Union, 2021). For any compliance department or company this new regulation brings up the need to free up resources, acquiring the appropriate regulation related know-how, project planning for the compliant implementation and long-term support of the new legal requirement. New regulations in different compliance areas come regularly into force. These new regulations are just one examples of the external factors that companies currently face or will face in the future. Targeted preparation and positioning within the company to be able to meet new challenges therefore appears to be at least as important as other essential factors, such as an effectively implemented compliance program. However, literature does not address the upcoming challenges to a necessary extent. What specific challenges can companies expect to face in the area of compliance and how best to address them? This paper's aim is to contribute to this research question by drawing on the resource-based view (RBV) and the dynamic capabilities approach as the theoretical underpinning and addresses compliance capabilities as competitive advantage. Guided expert interviews were used as methodology to gain insights into the expected future compliance challenges from an expert point of view and how companies should approach them. The author uses a qualitative content analysis according to Mayring (2000, 2019) to evaluate the discussed challenges and presents the results in section four. The paper concludes with a summary and highlights future research requirements.

2. Theoretical Background

This chapter introduces the resource-based approach first and focuses afterwards on the dynamic capabilities approach. Both approaches are strategy models with a focus on efficiency according to Teece et al. (1997, p. 513), where the dynamic capabilities approach is an extension of the RBV. The RBV is a famous and often used management theory (Kraaijenbrink et al., 2010, p. 350) and explains the different performance of companies with regard to internal resources (Lockett, 2001, p. 724). One aspect of the approach is that firms have heterogeneous resources, but the firms themselves are short-term tied to their existing resource endowments (Teece et al., 1997, p. 514). The importance of management tasks is increasing, focusing on realigning new opportunities and resources, whereby resource functionality, resource recombination and resource creation are three essential aspects of the RBV (Lockett et al., 2009, pp. 12–13). Resources can be tangible, such as brand names, or more intangible, such as company procedures, as well as static or dynamic, whereby the company's capability to learn is an example of a dynamic resource (Lockett, 2001, p. 725). The RBV is a static theory, in which competitive advantage over competitors is achieved by specific and hard-to-obtain resources, as well as a rather dynamic theory, whereby a company's resources develop via its unique business development (Lockett, 2001, p. 744). The central object of competitive advantage is "exploiting valuable, rare, costly to imitate, and nonsubstitutable resources" and the economic profitability of the competitive advantage depends on the conditions of acquiring and developing these resources (Barney, 2001, p. 48).

Madhani (2010, p. 5) specifies Barney's famous criteria (VRIN) of a competitive advantage according to the RBV, which is illustrated in table 1 below.

Table 1: “VRIN” criteria of a resource for competitive advantage

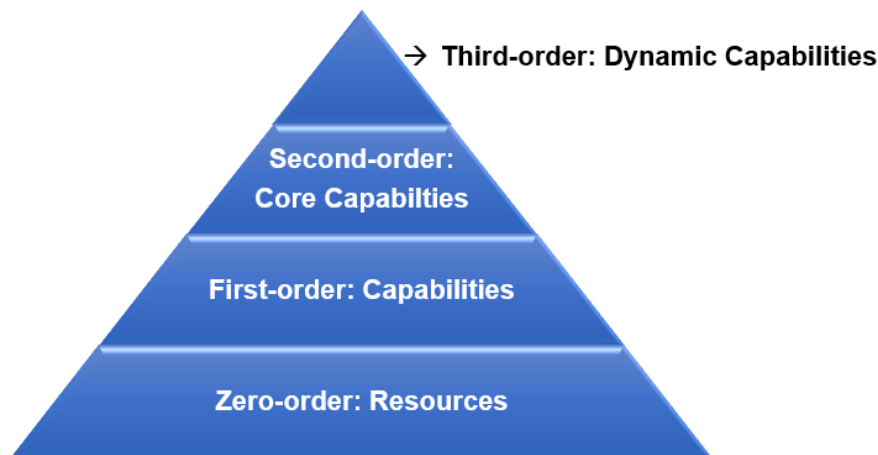
Valuable (V)	Provision of strategic value, Exploiting of market opportunities or reducing of market threats Adding or enhancing value of the firm
Rare (R)	Unique resources, which are difficult to identify by other competitors Providing a unique business strategy
Imperfect Imitability (I)	No possibility to imitate resource Difficult acquisition of the resource
Non-Substitutability (N)	No possibility to substitute resource by other alternatives to gain same performance

Source: Table created by the author, based on Madhani (2010, p. 5)

RBV resources are existing in any company regardless of background or industry type. Research on information systems (IS) resources for example uses the RBV to evaluate resources, such as market responsiveness, IS business partnerships, IS infrastructure or IS technical skills (Wade & Hulland, 2004, p. 119). For this reason, the RBV is a good starting point for the theoretical underpinning of this paper, as the approach can be easily transferred and applied to the compliance context. Without the evaluation in terms of the “VRIN” criteria, the responsiveness to legal changes, compliance management and planning, compliance business partnerships and compliance or legal expertise could be mentioned as a few possible resources creating a competitive advantage in the area of compliance. However, RBV is lacking to explain competitive advantage in a fast and unpredictable changing environment (Eisenhardt & Martin, 2000, p. 1106). When applying the RBV to a changing environment, we are led to the perspective of dynamic capabilities, since a company's resources must adapt to the external conditions of the market in order to remain relevant (Madhani, 2010, p. 12). The approach of dynamic capabilities supports the management reaching competitive advantage in a complex environment (Teece et al., 1997, p. 510). For competitive advantage according to Teece et al. (1997, p. 515), it does not seem to be enough to rely only on the “resource-based strategy” such as IBM does focusing on technological resources despite the difficult intellectual property environment. Teece et al. (1997, p. 515) consider responsiveness, flexibility and a capable management to organize the competencies accordingly as decisive. This view is perfectly applicable to compliance environment, since compliance operates in an extremely dynamic environment and must respond to unforeseen and volatile, complex (legal) regulations. According to the dynamic capabilities approach, it seems key not only to accumulate assets or resources, such as compliance know-how, compliance programs, compliance experts, but also to keep enough agility and flexibility to meet new legal requirements. With regard to the dynamic capabilities theory, Laaksonen and Peltoniemi (2018, pp. 199–200) use a simple but convincing causal structure for their research, stating that dynamic capabilities affect ordinary resources and can therefore influence the company's performance. Dynamic capabilities deal with change and therefore differ from ordinary capabilities (Winter, 2003, p. 992). A closer look at the terminology helps to develop a deeper understanding of dynamic capabilities. Teece et al. (1997, p. 516) define dynamic capabilities as “the firm’s ability to integrate, build, and reconfigure internal and external competences to address rapidly changing environments.” They consider “capabilities” as the important active shaping and adaptation of skills and resource, whereby “dynamic” relates to the skill to innovate those competences, necessary to meet new environmental conditions (Teece et al., 1997, p. 515). A similar, but more detailed definition is provided by Wang and Ahmed (2007, p. 35), since they define dynamic capabilities “as a firm’s behavioural orientation constantly to integrate, reconfigure, renew and recreate its resources and capabilities and, most importantly, upgrade and reconstruct its core capabilities in response to the changing environment”. The so-called core capabilities are especially emphasized, which is why the hierarchical order of resources and capabilities

according to Wang and Ahmed (2007, pp. 35–36) will be discussed in more detail in the following, supported by the following figure 1.

Figure 1: The hierarchical order of resources and capabilities



Source: Figure created by the author, based on Wang and Ahmed (2007, pp. 35–36)

As shown in figure 1, resources build the base for capabilities, whereby resources with VRIN criteria may contribute to competitive advantage, however not for a long term view, since they do not endure for long in a changing environment (Wang & Ahmed, 2007, p. 36). Capabilities help firms to achieve their goals with the skill to use resources, the core capabilities are strategically crucial for competitive advantage (Wang & Ahmed, 2007, p. 36). However, only the dynamic capabilities deal with a changing environment, focusing on the continuous adaptation and designing of the lower elements (Wang & Ahmed, 2007, p. 36). Winter (2003, pp. 992–993) points out that change can also occur without dynamic capabilities, this "ad hoc problem solving" happens when companies have to deal with challenges from the external environment without a routinized, not strongly patterned nor repetitive behavior. Eisenhardt and Martin (2000, pp. 1106–1107) further specify dynamic capabilities as specific processes and recognizable routines, whereby dynamic capabilities deal with integrating or remodeling resources. Also Wang and Ahmed (2007, p. 35) state that dynamic capabilities enable firms to determine their specific processes, which are important for the company's development. Wang and Ahmed (2007, p. 35) emphasize that dynamic capabilities are not processes themselves, that could be quickly transferred within or between companies, but are embedded in processes. This means that in terms of compliance, the success of a company, which constitutes its competitive advantage, is not incorporated only in existing resources themselves, but in having a capable management that manages these competencies according to environmental requirements. Filling abstract descriptions such as "manage capacities" with tangible content, appears to be an increasingly difficult task. For this reason, this paper examines which concrete challenges compliance experts see in the future and how they plan to address them.

3. Methodology – Guided Expert Interviews

The author decided to use guided expert interviews. Expert interviews represent a qualitative empirical research method and aim to discover expert knowledge (Meuser & Nagel, 2009, p. 17).

Bogner and Menz (2009, pp. 54–55) define the concept of an expert in an interesting and comprehensive way:

“An expert has technical, process and interpretative knowledge that refers to a specific field of action, by virtue of the fact that the expert acts in a relevant way (for example, in a particular organizational field or the expert’s own professional area).”

Expert knowledge does not only refer to specific subject related knowledge, but has “the character of practical or action knowledge” (Bogner & Menz, 2009, p. 54). For this reason, it was important to the author to interview experienced compliance managers or persons with comparable expertise, who not only have specialist knowledge with regard to compliance, but also have organizational responsibility in the company and a practical connection to the topic.

3.1. Sample

A total of six expert interviews were conducted with 4 experts from Germany, one from China and one from the US. All experts are employed in different legal entities of a German manufacturing medium-sized company in the industrial sector. As the topic of compliance in companies is highly sensitive, the interviewees were assured of anonymity, which is why no further information on the individual persons is provided. The author aimed to obtain views from outside Germany in order to shed light on the future compliance challenges on an international level. Even though the experts have different job titles as shown in table 2, all experts have a direct link to compliance, are organizationally assigned to the compliance function within the company and are responsible for implementing compliance. One expert is specialized in Global Trade, which covers compliance in the area of export control and customs.

Table 2: Overview of expert sample

Country	Job Title
Germany	Senior Vice President, Head of Group Compliance
	Senior Compliance Officer
	Compliance Manager
	Head of Global Trade Organization*
China	Senior Manager, China General Counsel (Group Legal, Compliance & Internal Audit)
United States of America	Senior Manager Compliance

**The Global Trade Organization is part of Group Legal, Compliance & Internal Audit*

Source: Table created by the author

The experts also described how they gained experience in the field of compliance. Aspects such as “training programs from different government agencies” (Interview 1, Pos. 24) or the university education as a certified compliance officer (Interview 4) were mentioned. Some experts reported having previously worked in other areas, e.g. as a consultant on leadership (Interview 3, Pos. 25) or as a qualified lawyer in Human Resources (Interview 5, Pos. 23). It is noticeable that experts highlight the overarching presence of compliance even while holding other positions within the company (Interview 2; 3) and many have gained their practical experience by learning on the job (Interview 1, 4, 6). Due to the expertise and training of the experts described above, they are best qualified to answer questions on the current compliance challenges.

3.2. Guided Interview Questions

The interview consisted of a total of 7 questions on the topic of compliance prepared by the author to guide the interview. In order to obtain as much input as possible, all questions were asked as open questions. Attention was paid to start with simple questions, such as questions

about their experience and profession and how the experts would define “compliance” in their own words. After that, the interview focused on compliance program elements. The interview was closing with the question on future compliance challenges. “*Do you see any challenges that organizations will have to face in the future with regard to compliance? And if yes, how can organizations address them?*” It should be noted that it was considered advantageous to use a two-part question, since the experts should not only explain what challenges they see, but also directly suggest solutions to meet the discussed challenges. All interviews were transcribed and the author made adaptations for a better readability without changing content.

3.3. Qualitative Content Analysis

The author used the software MAXQDA to analyze the transcripts of the expert interviews. The author worked inductively interpreting the transcripts based on the qualitative content analysis according to Mayring (2000, 2019) and thus formed categories on the transcripts. Following this approach, the interviews could be analyzed in a structured way and the experts' consistent or conflicting viewpoints could be identified. The results of the interviews are described in detail in the following chapter.

4. Results

It is striking that the experts often proactively raised the issue of compliance challenges in the introduction or at other points during the interview. This illustrates the importance of the topic for the experts. It is equally interesting that some of the challenges are mutually dependent or interrelated. Table 3 below provides an overview of the challenges the experts see in the area of compliance.

Table 3: Overview of challenges in compliance mentioned by the experts

Challenge - Main Category	Challenge - Subcategory	Mentioned by Interview Partner
Increasing amount of regulations to observe		#1,#2,#4,#5,#6
	Geopolitical Issues	#1
Appropriate ways to develop compliance awareness		#3,#5, #6
	Communication & Training	#3, #6
	Compliance program design & implementation	#5
Digitalization		#2, #3
Missing compliance capacity		#4,#5
Complexity		#2, #3, #5
	The increasing complexity of the world	#3, #5
	The increasing complexity of compliance itself	#2, #5
	Views of the different generations of workforce	#3
Heavier legal consequences in case of violations		#6
Missing evaluation and measurement methods of the positive outcome of compliance		#5

Source: Table created by the author

The most outstanding challenge, which almost all experts addressed consistently, is the increase of new regulations (Interview 1, 2, 4, 5, 6). This applies to higher requirements in a wide variety of compliance areas, such as EHS, anti-corruption, anti-money laundering, data protection or export control (Interview 6). “The challenge comes in the ongoing flood of additional regulations” (Interview 5, Pos. 65). The external circumstance of increasing regulations itself does not represent a challenge, but the implementation of those new requirements within company processes becomes a difficult task and thus a challenge. One expert makes the point that international regulations can differ in their content, which can result in economic disadvantages for countries with correspondingly strict regulations (Interview 1). Nationalistic views and geopolitical issues seem to aggravate the compliance situation, inter alia with additional regulations (Interview 1). Another issue associated with the implementation of the large and increasing number of regulations is the need of appropriate resources or staff to enforce them in the company (Interview 4, 5). As a consequence, a lack of educated compliance staff to implement the new regulations may represent a great compliance risk or severe threat for a company in terms of misconduct and violations. In addition, it seems to be a further challenge that more serious legal consequences are expected in case of violations (Interview 6). These thoughts have a direct link to fact, that the positive value of compliance hardly be measured or evaluated but is rather seen as a costly measure to avoid penalties (Interview 5). With a transparent measurability of the positive impact of compliance, the acceptance for more compliance staff could be created to implement the multitude of new regulations. Complexity is also an aspect reflected by the experts and can manifest itself in many ways. On the one hand, there is an increased complexity in the topic of compliance itself, as more and more new areas fall under the responsibility of compliance. “The compliance department has developed over the last decade from doing antitrust to having a whole spectrum of risk categories and therefore, I would say, the complexity has increased” (Interview 5, Pos. 65). The increasing number of regulations contributes to increasing complexity (Interview 2). Furthermore, the world and the environment of companies is becoming increasingly complex, among other things due to globalization “(Interview 3). Other external structures and circumstances are also seen as drivers for the increased complex compliance environment, such as global supply chains, governments, and regulators (Interview 5). It can be summarized that the complexity of compliance per se, but also of the entire environment, is generated by external influences that companies cannot proactively shape or prepare for but can rather react to. One aspect, which was assigned by the author as a subcategory to the topic “complexity”, represents a very interesting and new perspective. This challenge refers to the different generations within a company and their different views (Interview 3). To take into account the different generations and to define a common way forward is seen as “an organizational management challenge in itself” (Interview 3, Pos. 101). It is necessary to implement corporate compliance in a way that all generations are approached equally effective. Digitalization is also seen as the cause of new challenges (Interview 2, 3). In the future, digitalization will certainly result in new situations that are still unknown today and that we will have to deal with, such as social media nowadays (Interview 3). Digitization will generate new areas of compliance in the future. A completely different perspective on digitization is transparency towards authorities (Interview 2). Whereas audits used to be paper-based, auditors can now evaluate large volumes of data in a very short time and thus identify possible violations (Interview 2). More transparency forces firms to perform better (Interview 2). Digitalization thus contributes additionally to the pressure on compliance departments. Another challenge is seen in creating

compliance awareness within the company (Interview 3,6). Developing a deep-rooted understanding and awareness of compliance appears to be a key challenge (Interview 3). Equally challenging and an ongoing task is the communication and training of employees, to help them understand compliance, to integrate it into the culture and to achieve general awareness at all levels of the hierarchy, regardless of job position (Interview 6). In addition, it is emphasized that the design and implementation of a compliance program is crucial (Interview 5). This aspect is assigned to the category of "awareness development", since a compliance program pursues exactly this goal. As a second step, the experts should also identify possible solutions to address the previously described challenges. It is in contrast striking that compared to the extensively thematized challenges in compliance, there was less input regarding possible solutions. The experts also had fewer points of agreement, and they seem to follow individual approaches. Table 4 below provides an overview of the suggested solutions by the experts.

Table 4: Overview of solutions to overcome compliance challenges mentioned by the experts

Solution - Main Category	Solution - Subcategory	Mentioned by Interview Partner
Structures, processes & programs		#1, #3, #4, #5
	Alignment & joined forces in governance and risk management structures	#5
	Streamlining	#4
	Digitalization	#4
	Focus on relevant areas	#1
	Experts	#3
	Focus groups across an organization	#3
	Improved performance	#2
Creativity		#1, #3, #6
Communication and training/workshops		#6
Promotion programs		#6
Exam activities		#6
Invest in compliance by management		#5
Flexibility & agility		#3
Awareness about changes		#3
Compliance network		#1

Source: Table created by the author

Most experts mentioned the organizational factor summarized as “structures, processes and programs”. Firms should focus on the coordination of governance and risk management structures and how synergies can be realized (Interview 5). To handle the compliance workload in future, processes should be streamlined and digitized (Interview 4). Furthermore, companies should focus on relevant compliance areas that affect a company or in which difficulties are seen (Interview 1). Benedek and Bognár (2024) recognized this necessity and developed a structured compliance risk assessment process, which could be useful in practice. In addition, experts in compliance teams should provide risk assessments and advice on issues to consider (Interview 3). A proactive and intrinsically motivated investment in compliance functions by management seems to be equally necessary, especially before mandatory requirements are requested by external stakeholders (Interview 5). However, a higher headcount alone cannot represent the solution because of the costs involved (Interview 5). It becomes necessary to

coordinate and align the right level of investment with efficient processes and structures. The comment "improved performance" (Interview 2) can be understood as a challenge and solution at the same time. Since the experts saw the greatest potential in corresponding structures, processes and programs, the requirement for improved performance was assigned to this category. Another very interesting and unexpected aspect relates to creativity and was mentioned by three experts alike (Interview 1, 3, 6). Since creativity is not associated with compliance at first glance and rather little thematized in literature, further research in this area could be valuable and bring new insights. The experts call for creativity in different areas, e.g. how to make compliance attractive (Interview 3) or how your network might support you with compliance issues (Interview 1). Companies should proactively work on the development of a global compliance network, e.g. via memberships in various local and international compliance associations. Also focus groups for compliance topics could be a useful addition to the existing organizational structures (Interview 3). Other aspects aimed at raising awareness of compliance within the company are short-term solutions such as promotional programs or exam activities (Interview 6). Linked to these aspects, the experts mention workshops and training, as well as the repeated communication of the compliance message as important measures (Interview 6). Another very noteworthy comment relates to a company's ability to be agile and flexible to face new challenges as well as being aware that new (compliance) issues can always arise unexpectedly (Interview 3). This view is also in line with the theoretical foundation of this paper, where companies need these dynamic capabilities in order to be successful in an ever-changing environment.

5. Conclusion

Interviews with experts helped to identify key challenges that compliance departments in companies will have to face in the future. In particular, the implementation and consideration of the increasing number of new regulations poses challenges for the compliance experts. Research often deals with compliance costs (Grainger, 2014; Lah & Kotnik, 2022; Smulders et al., 2017) and also in practice compliance departments often have to justify themselves, since their actual value is difficult to quantify. Creating true compliance awareness in companies demonstrates another difficult task for compliance departments. Other external factors such as globalization and a constantly changing environment exacerbate the situation. The experts' opinions on how to meet these challenges are diverse and less consistent than those on the challenges and therefore requires in-depth research on practical solutions. Most of the recommendations can be assigned to the category of "structures, processes & programs". Coordinated, digitally supported compliance processes should be established concentrating on relevant and essential compliance areas. The aspect of digitalization is becoming increasingly relevant in terms of compliance. Digitalization can be used to promote compliant tax behavior (Bellon et al., 2022; Porumboiu & Brezeanu, 2021), even with additional support from artificial intelligence (Belahouaoui & Attak, 2024). This promising direction should also be considered for other compliance areas. The design of compliant business processes becomes even more important (Lu et al., 2008), which was also raised by the experts. The experts recommend investments in the organizational structure, but not only in internal compliance experts, but also in the establishment of focus groups and a far-reaching compliance network. Compliance awareness can be fostered short-term with communication and training or workshops, promotion programs or exam activities. Different approaches of rewarding and sanctioning can support compliance intention (Y. Chen et al., 2012). For the author, particularly interesting and promising aspects are creativity, flexibility, agility and awareness about changes, which is

hardly discussed in literature. These aspects also correspond to the theoretical foundation of this paper, as dynamic capabilities appear crucial for long-term success in a constantly changing compliance environment. This raises the question of whether creativity, agility and flexibility could be seen as the new dynamic capabilities adapting their existing resources and capabilities to achieve competitive advantage? The results of this paper provide the basis for many other future research approaches that have hardly been addressed in literature to date. The limited input from the experts regarding possible solutions confirms the complexity and difficulty in practice and represents the base for further research. With the help of further in-depth interviews or group interviews with experts, the following questions could be analyzed. What can agile project management look like in the field of compliance? How can creativity be implemented in a compliance context, e.g. with the help of creativity techniques? As a limitation it is pointed out that the interviews were conducted with 6 experts, most of them from Germany. The results obviously cannot be generalized but can be seen as a roadmap for future research approaches and represent a good current picture of the general mood in the field of compliance.

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