

Session 809

Establishing and Conducting In-house Training Programs

Kathleen D. Long
Counsel
Aristech Chemical Corporation

Albert C. Peters II
Assistant Counsel
Pennsylvania Turnpike Commission

Establishing and Conducting In House Training Programs

- I. **Reasons for Training**
 - A. Promoting compliance (sentencing guideline issues)
 - B. Preventing litigation and reducing its expenses (time and money)
 - C. Improving personal productivity, effectiveness, and efficiency

- II. **Sources of Need for Training**
 - A. Corporate policies
 - B. Review of operations (Recent events, lessons learned)
 - C. Knowledge from disputes and litigation
 - D. Surveys, conversations, research requests

- III. **Potential Training Areas**
 - A. Labor and Employment Law
 - B. Sexual harassment
 - C. Antitrust
 - D. Intellectual Property
 - E. Environmental
 - F. Commercial Law
 - G. Electronic Communications [email; Internet]
 - H. Attorney/Client Privilege
 - I. Document Retention
 - J. Federal Sentencing Guidelines
 - K. Import/Export Law
 - L. E-commerce
 - M. International Trade.

- IV. **Role of Legal Department**
 - A. **Needs Assessment** – determine what training client needs (look at recent litigation in company or industry, near misses, dates of prior training, implementing new policies or procedures, new laws)
 - B. **Planning and Administration** – (look for opportunities to train, scheduled staff meetings, retreats, following transaction or litigation; assign responsibility for administration, budgeting, tracking of training and reporting to company management)
 - C. **Choosing a Medium** - (most effective way to reach audience – seminars, brochures, intranet, news letters, video conferencing)
 - D. **Selecting Trainers** - (inside counsel, outside counsel, vendor)
 - E. **Developing Training Program** – (Borrowing (but from where?) v. Inventing (who has the time?); confidentiality; trade secrets; disclaimers for future litigation)
 - F. **Implementing Training Program** – (Getting the word out.)

V. Various Forms of Training Material**A. Written Materials (Brochures, newsletters, legal guidebooks, memoranda of law)**

- (i) Distribution (Intranet, hard copies, e-mail)
- (ii) Make vs. Buy
- (iii) Updating
- (iv) Pros: reaching mass audience, easy to update, some materials can be bought rather than made, relatively easy to generate, can convey information in a timely manner
- (v) Cons: can't guarantee that client will read it, less personal, difficult to measure effectiveness

B. Seminars

- (i) Different methods
 - Lecture
 - Roundtable discussion
 - Case method
- (ii) Mixing Media (use of video with lecture, case studies, role playing)
- (iii) Videotaping
- (iv) Videoconferencing
- (v) Follow-ups
- (vi) Pros: reaching targeted audience, establishing rapport with client, giving client the ability to ask questions, client interaction.
- (vii) Cons: more limited opportunities to reach clients, time consuming to produce, some subject matters are dry and difficult to present.

C. Use of Company Intranet

- (i) Making publications available on Intranet
- (ii) Use of video on the Intranet
- (iii) Use of interactive methods
- (iv) Pros: ability to reach all Intranet users, easy to update, ability to monitor use, can be interactive.
- (v) Cons: less personal, not all clients are comfortable with this medium, need strong IT support.

VI. Measurement

- A. Use of evaluation forms in Training Seminars
- B. Follow up with clients
- C. Selling the GC and executives
- D. Defense success in litigation [e.g LEXIS searches of sexual harassment cases]
- E. Absence or reduction of historical problems
- F. Increase in phone calls for advice (before managers act)
- G. Compliance Program reports

**ARISTECH CHEMICAL CORPORATION
COMPLIANCE PROGRAM
EMPLOYMENT TRAINING ATTENDEES**

NAME	SIGNATURE
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	
13.	
14.	
15.	
16.	
17.	
18.	
19.	
20.	
21.	
22.	
23.	
24.	
25.	
26.	
27.	
28.	
29.	
30.	
31.	
32.	
33.	
34.	
35.	

Practical Issues in Antitrust Law
An Antitrust Overview and
Tips for Antitrust Compliance

I. U. S. Antitrust Laws

- Sherman Act
- Clayton Act
- Robinson-Patman Act

II. Sherman Act

- No agreements in restraint of trade
- Prohibits price fixing, allocating markets, setting production levels

Examples:

- Company A decides not to sell to Company B.
- No contract or conspiracy. Company can unilaterally make this decision.
- Company A and Competitor B verbally agree not to sell to Company C.
- Clear violation.
- Following a trade association meeting, three competitors raise their prices for competing products.
- Could be viewed as an inference of wrongdoing.

III. Section 2 Violations

- Monopolization or attempts to monopolize are prohibited.
- Two elements: (1) Monopoly power and (2) willful acquisition or maintenance of such power

Section 2 Violations Examples:

- Company A develops ground breaking technology and increases market share by 40% in one year.
- Not likely a violation. Acquiring larger market share through technology or business acumen is not illegal.
- Company A has a 75% market share. Company A drops its prices.
- May be predatory pricing.

IV. Clayton Act

- Prohibits certain exclusive dealing and tying agreements.

Tying Agreements Examples:

- Burger Chef has 60% of the burger market and 20% of the French fry market. Burger Chef decides to sell burgers with fries (can't get them separately).
- Burger Chef has illegally tied the products.
- Company A bundles Chemical A and B together and offers them at a lower price.
- Probably not an illegal tie. Look at facts.

Exclusive Dealing:

- Company A agrees to purchase all of raw material A from Company B.
- Look at the raw material A market.
- How many other competing sellers are foreclosed?
- Agreements for 1 year or less are generally acceptable.

V. Robinson-Patman Act

- Prohibits discrimination in price
- Discrimination in terms also prohibited.
- Must be two sales.
- Sales must be made at the same time.
- Only applies to goods, not services.
- Harm must be proved.

Robinson-Patman Examples:

- Company A sells product to Company B and Company C. Company B pays 20% off list price. Company C pays list price.
- Look for defense.
- Company C's payment terms are net 90 days. Company B's terms are net 30.
- Look for defense.
- Company A, under a 3 year Supply Agreement, has payment terms of Net 90 days. Company B, purchasing by PO, does not.
- No violation. The sales are not contemporaneous.
- Company A and Company B are charged the same price for the product. Seller rebates Company B \$100/month for advertising costs.
- Technically a violation. Look for a defense.

A. Defenses (R-P):

- Cost Justification
- Functional Discount
- Availability
- Meeting Competition

B. Meeting Competitive Offers

- Good Faith Belief
- Lower competitive offer
- Meet competitive price

C. Meet, NOT BEAT

- Price can be the same, not lower

D. Documentation - Internal Procedures

- Not Required by the Act
- Courts rely on it

Examples (R-P defenses):

- Mill A sells product to Distributor B, who is also a retail seller of A's products. A charges B its lower distributor price on all its purchases even though A knows that 60% are sold by B at retail.
- Manufacturer A sold a commodity to Customer C at a price lower than charged other customers. Customer C told the salesperson that it had received the lower price from Manufacturer B, a competitor of A.

VI. Antitrust Liability

- Individual fines of up to \$350,000 and jailed for up to 3 years
- Corporate fines up to \$10 million

VII. Contacts with Competitors

- Competitor as a customer
- Trade Associations

VIII. 7 Deadly Topics

- Price
- Transportation
- Credit & other terms
- Production
- Capacity
- Marketing plans
- Exclusion of Customers/Suppliers

IX. Tips for Compliance

- Don't discuss price with competitors
- Don't agree to stay out of another seller's market
- Meet with competitors only after seeking legal advice
- Do not join forces with some competitors against others
- Do legally compete for all the business that you can get - getting bigger is not illegal!!
- Avoid tying sale of one product to another
- Charge all customers the same price, unless there is a justification for not doing so
- Meet, not beat, competitive pricing
- Call the Law Department when you are not sure!!!!
- (list contact name and number)

Communications Training Compliance Program 1999

I. Business Conduct Policies

- Every employee is responsible to discharge all responsibilities entrusted to him ethically and in compliance with the *Guiding Principles of the Corporation* and all applicable law.

II. Guiding Principles

- Treat all people fairly and with respect.
- Uncompromising adherence to personal integrity.

III. Communications Policy

- All communications made in the workplace or in the scope of an employee's employment shall be professional and courteous.
- Every employee is responsible to use all communication equipment and media in the workplace or in the scope of employment in an ethical, responsible and lawful manner, consistent with the business interests of the Corporation, and to refrain from any communication that is unlawful or inconsistent with Corporation policy or procedure.

IV. Employment

- Provide and maintain a workplace and work environment which is free from any form of unlawful employment discrimination
- Comply with all applicable laws and regulations

V. E-mail, Voice Mail, and Snail Mail

- Property of the Company
- Right to Access and/or Disclose
- No Expectation of Privacy
- No Notice Required Before Access
- Courteous
- Professional
- Businesslike
- Common Sense
- Decency
- Civility
- Fairness
- Respect

VI. Inappropriate Outside E-mails

- Do not solicit
- Take reasonable steps to stop
- Do not forward
- Do not copy
- Do not save
- Delete (unless necessary for Investigation)
- Prohibited Communications
- Never Use to Make Derogatory Comments
- Never Send Messages That:
 - Harass
 - Intimidate
 - Abuse
 - Offend

VII. Never Interfere with Other Users' E-Mail or Voice Mail or Snail Mail:

- To Intercept
- To Disrupt or Distort
- To Alter
- To Send From Another Address
- To Falsify messages

VIII. Never Send or Intentionally Receive:

- Messages with Sexual Content
- Racial Slurs or Epithets
- Religious Messages
- Slurs or Jokes based on Sex, Race, Religion, Color, National Origin, Gender, Marital Status, or Age

IX. Other Improprieties

- Don't access, download or circulate sexual, racial, political or religious material - and don't browse sites that promote the illicit or illegal
- Don't log on to non-work related newsgroups, chat rooms, or web sites that promote the illicit or illegal
- Don't Debate Digitally
- Don't argue by e-mail
- Don't use personal, critical or sarcastic language
- Don't write inflammatory words you wouldn't say face to face
- Put off sending "heat of the moment" messages
- E-mail Derailed
- Don't clog the system with useless messages
- Don't get involved in e-mail chain letters
- Send messages that people need to do their jobs
- Proofread and edit before you send
- Check addressees

X. Take Care

- Check group distribution before you send
- Make sure group distributions are updated and accurate
- Double check addressees before sending
- Think before you write
- Make sure facts are straight
- Read and edit
- Choose wording carefully
- Treat like the document it is

XI. Procedures

- E-Mail
- Internet Usage
- EEO/Employment
- Consequences for Violations:
- Disciplinary action - up to **discharge**.
- Eliminate Unnecessary Business Risks
- Say What You Mean and Mean What You Say

XII. Your Audience

- Recognize that you do not always know who it is
- Potentially boundless with e-mail and other electronic communications
- Recognize the Limits of Your Knowledge
- Be precise
- Don't speculate
- Don't editorialize
- Learn to Spot Issues and Avoid Liability
- Use Corporate Policy As Guide

XIII. Five Areas of Potential Liability:

- Defamation
- Copyright Infringement
- Harassment and Discrimination
- Computer Hacking
- Obscenity

A. Defamation

- Opportunity for Harm Greater Due to Ease of Wide Dissemination
- Employee Participation in Chat Rooms, Newsgroups or E-Mail Expose Company to Potential Liability
- Clear Procedures and Guidance
- Education Regarding Computer Communications

- B. Copyright Infringement
 - Illegally Downloading Software
 - Cut and Paste Clip Art or Images
 - Duplicating Photos
 - Misuse of Logos

- C. Harassment and Discrimination
 - E-Mail
 - Bulletin Boards
 - Access to Sex and Hate Sites

- D. Hacking
 - Unauthorized Use of Third Party Systems
 - Electronic Communications Privacy Act - Illegal to Intercept a Third Party Transmission
 - Potential Trade Secret Misappropriation

- E. Obscenity
 - Downloading Pornography
 - Obscene Phone Calls
 - Interstate Transmission of Obscene Materials
 - Child Pornography
 - Linking
 - Hostile Work Environment

- XIV. International Issues
 - Employee Use Crosses Borders
 - Different Countries Have More Stringent Laws
 - Germany - Obscenity
 - Hong Kong - Copyright
 - England - Defamation

- XV. Real World Examples
 - Morgan Stanley - Racist Jokes
 - Compaq Computer - Exchanging Pornographic Images
 - Microsoft - Executive Downloading Child Pornography
 - Brokerage Firm Firings
 - Harvard Divinity Dean

SUPERVISORY LAW

How the law supports good workplace practices

Essence of work of supervisors - Creating rules and expectations; encouraging compliance; dealing with deviations; enforcing rules

Avoiding employment liability by acting properly, intelligently, & consistently (doing the right things for the right reasons, etc.); can't prevent filing of lawsuits, but good practices avoid long cases

The Basic Supervisory Challenge: Flexibility v. Strictness

Situations when supervisors should be flexible and when they should be strict

Different work situations – toll booths v. evening public comment meetings

Flexibility in the disciplinary process [e.g. early v. later in the process]

[A brief review - The difference between union and management employees]

Fewer restrictions in dealing with management employees

Discipline

Grievance process

Exercising Judgment - Responsibility of Supervisors and Discipline

Essence and types of discipline [consistent treatment; fundamental fairness]

7 standards for measuring just cause (definitely applies to union employees, can be applied to management employees): notice to employee about rule; reason for rule; relation to business; investigation before discipline; fair and objective investigation; evidence that employee is guilty; equal application of the rules; reasonable penalty

Importance of good documentation; requisite elements

What to do about repeated, but minor offenses?

Responsibility of various levels of supervision in the disciplinary process

Exercising judgment - Authority of supervisors

Generally: observe, investigate, implement, & recommend (in certain instances)

Check with your department head

Local issues v. system-wide issues [when to seek help: either higher or lateral]

Exercising judgment - Responsibility of Supervisors: Enforcing Company Policies

Recent U. S. Supreme Court cases re harassment; "0" tolerance

Exercising judgment - Responsibility of Supervisors: Problems, Complaints, & Grievances

Distinction between grievances and complaints

Distinguish between surface and underlying issues as well as between what's said and unsaid

Importance of good investigations; review steps for conducting successful investigations

Making Rules and Ensuring Work is Performed

Recognition of legitimate business reasons by various employment laws

Setting expectations; assigning work; motivating employees [training, output, quality]

Use reason, common sense, good judgment

Know the "rules", e.g. union contract

Know the work capabilities and workplace problems of your employees

Communicating job expectations

Job Descriptions; qualifications; essential functions

Job specific performance factors [related to internal evaluation system]

Daily & temporary assignments

Training and direction

Performance standards and discipline

Progress and performance reviews/Documentation of performance

Motivating the workforce and dealing with low-producers and trouble-makers

Ways to motivate/compliment [Positive (compliments: written, face-to-face)]

Ways to deal with low producers, etc. [Negative (discipline)]

DON'T LET SUPERVISEE BECOME THE SUPERVISOR!!!!)

Dealing with employees who can't or won't work

Warning about how counseling is mentioned [ADA "regarded as" liability]

WC, ADA, FMLA - the "Bermuda Triangle" of employment law

Summary of each law and review of overlapping definitions

Therefore, what's a supervisor to do with these laws?

Know contacts for WC, ADA, and FMLA

Observe and document deviations from expected conduct and performance

Report these observations to your supervisor and HR

Other workplace issues

Email, voicemail

Privacy

Violence

Drug and alcohol testing

Summary

When to be flexible, when to be strict

Exercising judgment – the authority and responsibility of supervisors

Making rules and ensuring that the work is performed

Employees who can't or won't work [briefly]

Have goals

Ask the right questions

Determine the facts

Institutionalizing Compliance With Company-Wide Training Programs

Originally appeared in "Insights", January, 1992
Corporate Compliance

Copyright 1992 by Prentice Hall & Business, Inc.
Reprinted with permission of author, Michael Goldblatt

Many companies have failed to implement effective legal training programs despite the fact that they have long-standing legal compliance policies and codes of conduct. However training programs are likely to receive increased attention as a result of the U.S. Sentencing Commission Guidelines which require that companies reinforce their compliance programs with training. The most common training activities are distribution of policy statements and other publications and the use of seminars and workshops. This article explains how corporate counsel can implement these training activities for their clients.

Recent legislation at the federal and state level has imposed new standards of criminal conduct and tough new fines. [FN1] Examples of new laws imposing stiff criminal sanctions include the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990, the Securities Enforcement Remedies and Penny Stock Reform Act of 1990, the Clean Air Act of 1990, and the California Corporate Criminal Liability Act of 1990. Another recent trend has been the adoption by regulators of rules and policies that provide reduced penalties when a compliance failure occurs despite an effective compliance program. [FN2] Initiatives in this area include the Sentencing Guidelines [FN3] that were issued by the United States Sentencing Commission and a Policy Statement [FN4] issued by the Department of Justice to encourage voluntary compliance efforts. Although both the Guidelines and Policy Statement encourage voluntary compliance programs, the Guidelines require that compliance programs include training programs that educate the workforce via seminars and publications.

Administration of Training Programs

Needs Assessment

A key step in establishing a training program is an assessment of the company's training needs followed by preparation of an action plan of the activities that are indicated by the assessment. [FN5] First, the legal areas that present the greatest potential for pitfalls or problems should be identified. Next, a planning calendar should be developed with dates, places, and groups targeted for publications and seminars during a one, two, or five year planning cycle.

Administrator

Administration of a corporate training program involves planning, budgeting, and oversight. Traditionally, corporate training programs were limited to skills training and were the responsibility of a director of training or manager of human resources. Companies with training programs sometimes assign administrative responsibility to a director of compliance. Regardless of which corporate manager administers the training

program, the advice and counsel of the company's lawyers [FN6] will be needed in view of the complex laws governing corporate conduct and the serious consequences of compliance failure.

Trainers

The training administrator should carefully select trainers for the program and assign them responsibility for leading seminars and writing guidebooks, memoranda, and newsletters. The use of outside counsel is advisable when inside counsel does not have the expertise needed for a training session or publication. In some cases, teaming of inside and outside counsel may be appropriate. In other cases, a non-lawyer outsider can be invited to participate, for example, a regulator or ex-convict. [FN7] In any event, every seminar and publication should receive the support of top management to demonstrate the company's sincere commitment to legal compliance. [FN8]

Budgeting

Separate budget accounts for training should be established for the out-of-pocket expenses incurred for training activities. [FN9] The use of separate budget accounts is useful for comparing the cost of training programs against benefits. Separate accounts also facilitate a comparison of estimated expense against amounts that are actually incurred. For example, underspending on seminars during the year might indicate an excessive number of canceled seminars while overspending on newsletters might indicate overemphasis on graphics or paper quality.

Reporting

The administrator of corporate training programs should report to the company's board of directors at least quarterly on training activities. [FN10] In order to facilitate board reports, a log can be used to record the dates and details of training programs. The log can be as simple as a chronological listing of seminars and publications or it can be supplemented with details on topics covered, the business unit addressed and the number of employees involved. In addition to facilitating board reports, the log also can be used to analyze needs for additional programs.

Evaluations

It is important to evaluate training activities to be certain that they are effective. An evaluation form can be distributed with publications and at training sessions. [FN11] The evaluation forms will provide valuable feedback on the usefulness of training material and provide for upstream communication by employees to the training administrator. A summary of evaluations can be included with compliance reports to the company's board of directors.

Legal Policy Statements

At the foundation of every compliance training program are policy statements and codes of conduct. [FN12] Corporations adopt written legal policy statements to inform managers of their legal and ethical responsibilities. The legal areas most frequently covered in policy statements are anti-boycott, antitrust, corporate political activity, environmental, employee relations, and securities laws. These legal areas are popular targets for compliance policies since they are subject to rigorous enforcement by government agencies and violations can result in heavy fines and penalties.

Content and Distribution of Policy Statements

Legal policy statements usually contain a summary of the law and indicate that employees must conduct their activities in compliance with the law. Policy statements usually set forth procedures for reporting and investigating violations and policies on disciplining employees. Policy statements also can instruct employees when to contact corporate counsel for advice. For example a policy on antitrust compliance could warn managers to contact antitrust counsel before they terminate a distributor and a personnel policy could instruct managers to consult labor counsel before terminating an employee. Corporate policy statements are usually distributed to senior managers at the time the policies are adopted or amended.

Codes of Conduct

Codes of conduct are used by a high percentage of companies to communicate a variety of legal topics to rank and file employees, including government relations, customer/supplier relations, employee relations, and relations with competitors. [FN13] Although the goals of compliance codes include promotion of lawful conduct they do not contain the detailed discussions that appear in legal policy statements. The types of conduct regulated by codes of conduct include conflicts of interest, confidentiality of corporate information, misappropriation of corporate assets, bribery, and political contributions.

Distribution

Most companies distribute their codes of conduct to directors, officers, and employees when they join the company. Several companies distribute their codes of conduct on an annual basis to all employees and require that recipients sign a certificate acknowledging that they have received the code, read and understood it, and agree to comply with it. Although annual distribution of a code serves as a reminder of compliance obligations, some companies lack the resources to follow up with employees who fail to return their certificates or report exceptions. And, top management support is needed to assure that the annual certification does not become a meaningless ritual.

Publications

The most popular publishing activities utilized in corporate training programs include law department brochures, legal guidebooks, memoranda of law, and law department newsletters. Publications can be distributed in mass to corporate employees and can be used as handouts at corporate training sessions.

Law Department Brochures

Some corporate law departments have prepared brochures to help managers identify who to contact for particular problems. [FN14] Photographs and biographical information can be included to make managers aware of the accomplishments of in-house attorneys and to establish personal rapport. Brochures are an important compliance tool because they facilitate communications between attorneys and managers. They can be updated quarterly or annually.

Law Department Newsletters

Newsletters are an effective method for advising employees about changing laws and regulatory requirements. [FN15] Unfortunately, newsletter production requires a major commitment of time in order to produce them on a regular basis. For corporations that lack resources for in-house newsletters, guidebooks and memoranda are better alternatives.

Guidebooks

Guidebooks can be prepared in-house or acquired from commercial publishers or industry trade associations. Factors affecting the "make" or "buy" decision include the resources of the department in time and funds and the availability of commercially prepared texts that fit the company's situation. For example, many law departments have prepared guides to antitrust laws because commercially prepared books do not fit their corporate culture. Conversely, many companies purchase materials to educate managers about their responsibility under anti-discrimination [FN16] and securities [FN17] laws since legal issues are fairly uniform regardless of corporate environment.

Memoranda of Law

Memoranda of law can be distributed as needed to alert management to important developments as they occur. For example, the implications of the recent adoption of laws governing employment of disabled workers is a good candidate for a special memorandum. A variation of this technique is to obtain permission to distribute copies of articles from newspapers or periodicals that contain a good analysis of a legal development. The article can be accompanied by a memo from the law department with recommended action for compliance.

Training Sessions

Training sessions are becoming a popular method for promoting compliance in the workplace. [FN18] They are usually targeted to small groups of managers to sensitize them to their legal responsibilities. The format utilized for training sessions will vary depending on the size and expertise of the audience and the subject matter to be presented. All training sessions should provide "how to comply"; information and allow sufficient time for questions and interaction with the audience. A variety of formats are available for training sessions, including lecture, group discussions, and the case method.

Lectures

Lectures are the preferred form of presentation when interaction or discussion is not possible or is not wanted. For example, lecture style training sessions may be desirable if the participants are not very knowledgeable or are very opinionated or if people of different status are to be grouped together, and it seems likely that give-and-take will be inhibited. Lectures are also desirable if it is necessary to present an important legal topic to a large group in a short time period, such as a presentation on new antitrust regulations to a group of sales representatives whose time at company headquarters will be brief.

Group Discussions

Group discussions provide an opportunity for the audience to freely exchange ideas and opinions. The role of the trainer is to encourage discussion through questions, controlling the length and focus of each participant's comments, and concluding the discussion with an analysis of the discussion. Group discussions are useful when the subject is one that is misunderstood and one for which people have many facts or opinions to share. For example, a group discussion on sexual harassment in the workplace might be useful for a training session for division managers or department heads.

Case Method

Although the case method has been traditionally used as an instructional technique in law and business schools, it did not become popular with corporate trainers until recently. The leadership skills of the trainer and the motivation of the audience are critical to the success of the case method when it is applied in the corporate setting. At the conclusion of a case method training session, the trainer should summarize the learning points or issues developed by the cases. This technique might be useful, for example, in instructing credit managers on how to comply with fair credit laws.

Videos

Commercially produced video programs are available to facilitate training sessions. [FN19] For example, a video of an executive fumbling through a deposition is an excellent tool for educating managers about the dangers of civil discovery procedures. Well made videos on antitrust, discrimination, and securities laws can retain audience

attention longer than a conference room lecture. Videos also can be loaned to employees for home or office viewing at their convenience.

Conclusion

Compliance training is essential for preventing illegal conduct and for seeking a mitigated sentence when there has been a compliance failure. Regulators and prosecutors have begun to recognize the value of training efforts when imposing sanctions for criminal conduct. The training methods outlined in this article can be implemented by corporate counsel and their clients to prevent and (if unavoidable) reduce exposure for stiff criminal sanctions in a climate of increasing criminalization of undesirable corporate conduct.

Michael Goldblatt is Associate General Counsel of Tidewater Inc. in New Orleans and author of *Preventive Law in Corporate Practice*, published by Matthew Bender & Co.

1. The Increasing Criminalization of Business Conduct, an Overview, *Business Law Update*, Jan./Feb. 1991, at 1.
2. See Sigler and Murphy, *Interactive Compliance: an Alternative to Regulatory Compulsion* (Greenwood Press 1988).
3. United States Sentencing Commission, *Sentencing Guidelines for Organizational Defendants*, issued April 26, 1991 [hereinafter the Guidelines].
4. United States Department of Justice, *Policy Statement*, issued July 1, 1991 [hereinafter *Policy Statement*]. See *The U.S. Department of Justice and the U.S. Sentencing Commission Encourage Preventive Law Activities*, *ACCA Docket*, Fall 1991, at 44.
5. *Minimizing Corporate Civil and Criminal Liability: a Second Look at Corporate Codes of Conduct*, *Georgetown Law Journal*, April 1990, notes 484-487 and accompanying text.
6. *Corporate Compliance Programs: Counsel's Role*, *ACCA Docket*, Fall 1989, at 32.
7. *Making the Most of Sentencing*, *The National Law Journal*, Feb. 22, 1988.
8. *The Code a Company Lives By, Directorship*, April 1986, at 1.
9. See Hancock, ed., *Law Department Management Business Laws*, Inc. 1991) at 104.
10. See *15 Tips for Building a State-of-the-Art Compliance Program*, *The Lawyer's Brief*, January 15, 1990, at 17.

11. See Chapter 700 (Law Department Effectiveness Questionnaires) in Hancock, *supra* note 15.
12. See Hancock, ed., *Company Policy Statements* (Business Laws, Inc. 1988).
13. See Ethics Resource Center, *Creating a Workable Company Code of Ethics* (1990).
14. *Client Brochures Take on New Dimension as a Tool for Promoting Preventive Law*, *Preventive Law Reporter*, September 1990, at 3.
15. *Advising Managers with a Law Department Newsletter*, *ACCA Docket*, Fall 1986, at 25.
16. Bureau of National Affairs, *Primer on Equal Employment Opportunity*.
17. CCH, *Responsibilities of Corporate Officers and Directors Under the Federal Securities Laws* (1991).
18. See Goldblatt, *Organizing Successful Client Seminars* (American Bar Association 1990). But see *Anti-Discrimination Training Haunts Employer in Bias Suit*, *Wall Street Journal*, July 31, 1991, at B-1.
19. *Legal Videos - How to Compile a Videography*, *Legal Publishing Preview*, May/June 1989.