

The Fine Art of Asking Questions

There isn't a single compliance person in the world who is "playing with a full deck." No, I am not implying that a person would have to be crazy to get into this field of work. I am just pointing out that a compliance person is never done learning. It's virtually impossible to know everything about wine industry regulation, because

- there is no text book for this job;
- the laws and regulations change frequently, so even if there were a textbook it would always be out of date!
- considering the fifty states, the sheer number of laws and regulations is overwhelming;
- assuming you could read all of them, you would realize that there are more grey areas than black and white answers;
- unwritten agency policy and inevitable human interpretation play a significant role in regulatory enforcement, so reading by itself rarely gives a complete or useful picture of current requirements and practice. This is why—if compliance is your responsibility—asking questions is a big part of your job.

Asking questions is often the most practical way to find out what you need to know. For that reason alone the art of asking questions is worth mastering. But it also has other advantages:

- Asking questions allows you to confirm or correct impressions you may have formed from researching the laws.
- When time is of the essence, asking the right question to the right person gets you a faster answer than research would (and often a more accurate answer).
- Official interpretations in grey areas inspire much more confidence than guesses or personal opinions.
- Proper questioning builds in-depth compliance knowledge that you can't get any other way.
- In the course of asking questions, you develop a working relationship with the regulators, building trust and respect that will serve you well.

Unfortunately, asking questions is not as easy as it may first appear. You may be wondering what could be so difficult about a skill we've all practiced since we learned to talk: "Daddy, why is the sky

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blue?" The difficult part is getting good answers. We've all gotten plenty of inaccurate ones: (God made the sky blue to match your eyes, honey.) Especially in the field of compliance, getting good answers requires skillful questioning and perceptive listening.

There are several key considerations in asking good compliance questions.

Here are the most important:

1. The output is only good as the input. Unless you ask a specific question, giving the regulator enough details to understand the situation you are concerned about, you cannot get an adequate answer. Many regulators are reluctant to answer a question at all, if it is too general. This is because the laws and regulations they enforce may be very narrow in terms of what is required and what is allowed. Changing one small detail could turn a "yes" into a "no"—or vice versa. If your question doesn't even address that particular detail, the regulator doesn't know how to answer it.

2. Practice good communication skills. It is very easy to misunderstand another person, and to be misunderstood. Explain yourself thoroughly, and paraphrase the answer to make sure you understood it correctly. If the issue is an important one, write a confirming letter to the person you spoke to, restating your question and the answer. In every case, make notes of your conversations, including the date and the name of the individual who spoke with you.

3. Make it easy for the regulator to give you what you want. Do your homework, don't make them do your job. Instead of asking, "Can we do so and so as a promotion?" (which invites a "no" if it isn't specifically allowed in their regulations), say, "According to my understanding of this rule, we could legally do so and so as a promotion because (give your reason). Do you agree?" If you want an official opinion, write the opinion yourself and leave room at the bottom of the letter for the regulator to sign indicating agreement, add conditions, or make corrections.

4. Don't shop around for answers. Sometimes you have to talk to several people in the same office before you find the person whose expertise best suits them to answer your question. In many cases the regulators themselves will refer you to another person in their organization. However, they resent it when a caller asks many agents the same question and then chooses the one he or she prefers.

5. Be persistent. If other questions oc-

cur to you as you talk with a regulator, ask them too. If the answers you get don't sound right, keep pursuing the subject until you are satisfied.

6. Above all, remember that the governmental employees are people. If you treat them with courtesy and respect they many of them will bend over backwards to help you. If you are rude, argumentative, or unhelpful, very few of them will give you their best. Would you, in a similar situation?

7. If you are worried about revealing your identity and/or the full details of your plan, it will be difficult for you to get a good answer without help. In such cases, an independent compliance or legal advisor is better suited to the task. When I call a regulator to ask a question, more often than not I never mention the identity of my client. This way the client gets the best of both worlds— anonymity and a good answer.

Compliance involves a lot more than typing paperwork and squinting at law-books. Good people skills are the hallmark of a good compliance person. Most important among good people skills is the fine art of asking questions.