

Compliance Improve

A WAY FOR EVERY

Compliance Improvement, a new philosophy for the Australian Customs Service, is replacing the age-old system of looking for errors and punishing transgressors.

DAVID WIDDOWSON says the new approach aims to fix the causes of non-compliance - such as a flawed company system or unclear regulations - and is leading to higher levels of compliance and better trade facilitation.

Most breaches of import, export and excise laws are the result of mistakes rather than deliberate attempts to defraud. This fact underscores the growing success of perhaps the biggest cultural and methodological change in the history of the Australian Customs Service.

It is the Compliance Improvement philosophy, under which we seek to achieve a continual improvement in the level of voluntary compliance and, in turn, make it easier for companies to comply with the law. A major platform of Customs continuing comprehensive structural and operational reform, it involves education and policy, procedural and legislative changes as well as new risk management and self-assessment regimes. All are helping to ensure full implementation of the reforms.

The new approach gives Customs a more coordinated focus on its considerable range of commercial responsibilities. And businesses get better ways to meet their obligations. The approach also provides greater assurance to the Government about the levels of

compliance for the vast sums of money Customs handles each year. (In 1996-97, Customs collected \$17.5 billion in duty, sales tax and excise and paid out \$6.5 billion in industry assistance and other administrative schemes, including the Diesel Fuel Rebate Scheme.)

Blueprint for action

In October 1994, the former minister responsible for Customs, Senator Chris Schacht, established an Industry Panel to assist Customs to form a compliance strategy and to provide a forum to consult with business people on aspects which would affect them.

The panel included representatives of importers, exporters, manufacturers, accountants and customs brokers as well as academics, a senior tax official and a senior Customs representative. *(Industry panel completes ground-breaking task - this page.*

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ONE TO WIN

The panel's report, *Looking to the Future - Compliance Improvement*, gave Customs a comprehensive blueprint for the future and represents the most significant element in the organisation's reform process.

Before introducing the compliance improvement approach, Customs officers tended to wear a specific 'hat' - an imports hat, exports hat, excise hat, or bounties hat. This meant some transactions, considered in isolation, appeared significant or high risk but became insignificant when seen from a broader perspective.

For example, we have had situations where an officer wearing a refunds hat would do a 100 per cent check of a \$5000 claim while an officer wearing an excise hat would accept a \$50 million payment on face value. Things had to change.

Now we are able to direct our compliance resources to carefully assessed priorities representing the greatest risks. The hats are gone and replaced by a focus on industry sectors. We have set up National Business Centres with responsibility for all aspects of compliance for each of these sectors:

- Automotive and transport
- Textiles, clothing and footwear
- Alcohol
- Petroleum
- Tobacco
- Duty free shops
- Mining
- Information technology and telecommunications.
- General Business

Industry panel completes ground-breaking task

The Industry Panel on Customs Audit Reforms, which played a key role in developing the Compliance Improvement strategy, was dissolved in May 1997 after completing its work.

At the time, the Minister responsible for Customs, Mr Geoff Prosser, said the panel's work was the most significant element in Customs wide-ranging reform process.

Mr Prosser said the panel's report *Looking to the future - compliance improvement* had provided an excellent blueprint for Customs continuing reform programs and the means for achieving a more mature relationship with industry, based on partnership and trust.



Ian Grigg, Chairman of the former Industry Panel on Customs Audit Reforms.

The panel comprised

Mr Ian Grigg AM (Chair), Chief Executive, Federal Chamber of Automotive Industries.

Ms Antoinette Richardson Senior Lecturer, Department of Accounting, Swinburne University of Technology. (Alternate: Ms Carol Marsh, Lecturer.)

Mr Kent Heazlett, President, Customs Brokers Council of Australia Inc.

Mr Martin Feil, Chairman, Customs Committee, The Institute of Chartered Accountants in Australia.

Mr David Whalan, Import Services Manager, Coles Myer Ltd.

Mr Wayne McLachlan, Customs and Shipping Manager, Rothmans of Pall Mall (Australia) Ltd.

Mr Jack Miller, International Logistics Manager, IBM Australia Limited.

Mr Phil Pitsikas, Supply and Distribution Manager, Shell Co. of Australia Ltd. (Alternate: Mr Richard Robinson, Senior Tax Adviser.)

Mr Ross Humphries, Deputy Commissioner, Australian Taxation Office.

Mr David Widdowson, National Manager - Commercial Compliance, Australian Customs Service.

Australian industries in these sectors have gained a one-stop shop covering all their dealings with Customs, a move which has been extremely well received. Customs has gained a sharper client focus and stronger relationships with, and knowledge of, individual companies and industries.

The industry sector approach recognises the need to adopt specific strategies for managing compliance in different industries. Different strategies are also needed to assess levels of compliance in large companies and small to medium enterprises.

The philosophy of compliance improvement means we concentrate on building future voluntary compliance rather than merely correcting past errors, and in ensuring that an appropriate balance exists between assistance and enforcement.

This focus on the future contrasts with the traditional four-step approach to compliance: audit a company, find an error, penalise the company and leave. Now, we try to discover why an error was made and seek to ensure that it does not recur. Perhaps it was a control problem within the company - its systems or procedures may have been flawed. Perhaps other companies are making similar errors. Perhaps the legislation is unclear or our administrative requirements are ambiguous.

What we can do to help companies lift their compliance performances depends on the cause of the problem. We may suggest ways to improve their processes, even making officers available to work with the company, or ask the industry sector to advise us collectively. Sometimes formal clarification or even amendment of the law may be the best solution.

Non-compliance ranges from innocent mistakes to blatant fraud. A helping hand will be enough in most cases, but as an error nears the fraudulent end of the spectrum, some form of sanction will come into play. This may include administrative penalties or, at worst, prosecution.

Key elements

The key elements of our compliance improvement strategy include:

- Responsible and informed self-assessment.
- A partnership approach with industry.
- Client education, advice and service.
- Appropriate development and support for Customs staff.
- Clear legislative and administrative requirements.
- A risk-managed, coordinated approach.
- Appropriate audit activity.
- Appropriate penalties.
- Quality assurance.

Central to effective and efficient compliance improvement is self-assessment. The Industry Panel concluded that most commercial areas would lend themselves to self-assessment, supported by a compliance improvement program based on risk-management principles.

Self-assessment aims to ensure that we create greater certainty for businesses through education, nationally consistent practices and policies, and clear legislative and administrative requirements. This recognises that for companies to self-assess effectively they must be fully aware of their entitlements and responsibilities.

Benefits to industry and Customs from effective self-assessment include minimising compliance costs and simplifying and streamlining regulations and procedures.

This is most clearly demonstrated by the partnership arrangements which are being planned as part of the Cargo Management Strategy (*Partnerships to test strategy for faster trade*, page 12). Here, the benefits for complying companies include periodic accounting, deferred duty payments and a single point of contact with Customs for offsetting arrangements.

Managing risk

Sophisticated risk management is at the heart of Customs operational reforms as we focus effort and resources more accurately on areas of highest risk.

Customs has been a key player in the development of the official Australia-New Zealand Standard for Risk Management and has based its corporate risk management policy on it. Using the standard, identifying Customs compliance risk involves:

- Establishing the context (particularly the revenue collection and assistance payments for which Customs is responsible).
- Identifying areas of potential risk (including a careful analysis of our client base).
- Analysing the risks (asking “What’s the likelihood?” and “What would be the consequences?”).
- Putting priorities on risks (identifying the hot spots).
- Setting up an appropriate risk treatment (which may include education, audit, monitoring or some other measure).
- Evaluation and review (recognising that risks are not static and that we need flexible resources to respond quickly to new and emerging risks).

An important emphasis is on maximising compliance rather than on maximising revenue. In the past when an audit picked up, say, \$1 million it was counted as a good result, whereas handing back \$1 million was generally considered a bad result.

The new philosophy rejects this notion by identifying all compliance improvements as good results. And, under a true compliance improvement regime which seeks to help industry to meet its obligations and maximise its entitlements, this must be the case. Indeed, even non-revenue related matters must be addressed under a compliance improvement approach. For example, the integrity of trade data upon which key national economic and investment decisions are made must be maintained regardless of the level of duty which may be applicable.

In seeking to ensure that a company is complying with Customs requirements, we are broadening from a transactional approach to a more strategic analysis of overall company and industry performance. This is essential if we are to draw any meaningful conclusions about the true levels of compliance.

An extreme case might be a company declaring only half its imports. By pursuing transactions we are merely attempting to verify information about the 50 per cent of goods we know about. Only when we view those transactions in the broader context of the company's systems and procedures does the true picture emerge.

Business Centres and account managers

Customs National Business Centres are proving their worth as the vehicle to progress partnerships.

As a refinement of the centres and an extension of our ability to offer assistance, we have appointed a group of National Account Managers whose job is to provide major companies with a single point of contact for compliance issues.

An example could be a petroleum company with operational centres in 25 locations around the country. It would be assigned a National Account Manager who is attached to the National Business Centre for the petroleum sector. This ensures that the company's overall national dealings with Customs are taken into account when assessing the company's level of compliance. It also avoids the alternative piecemeal approach of dealing with national companies on a region by region basis.

Strategic partnerships

The compliance improvement approach emphasises the need for relationships between Customs and businesses to be based on partnership and trust, reflecting mutual commitment to accountability and improving compliance. Such a partnership, as the term implies, must be a two-way thing. There will be costs and responsibilities for both parties.

Companies with which we deal on a partnership basis must be prepared to open up their operations to analysis by our audit officers. They also need to tell us about changes to their systems or operations which may affect our assessments. Companies also want to know what factors cause us to rate them other than as a low risk. That is something which we must be prepared to help them with. After all, if they do not know what the problem is, they cannot be expected to fix it. This approach appears to be working very well.

Customs aims to create an environment in which companies can maximise entitlements and meet obligations with minimum commercial impact. This means we need to give them the means to achieve certainty and clarity, to allow them to conduct subsequent business without fear of additional imposts. In other words, no unpleasant surprises.

David Widdowson is National Manager, Commercial Compliance at Customs headquarters in Canberra.

Customs National Business Centres

National one-stop contacts
for major industry sectors.

Alcohol (excl. spirits)

Bob Harkins
02 9893 4304

Spirits

Phil Lane
08 8447 9385

Tobacco

Mike Kirkpatrick
02 9213 2650

Duty free

Mike Kirkpatrick
02 9213 2650

Information technology and telecommunications

Jim Fleming
02 9213 2259

Automotive and transport

Rory Collins
03 9244 8332

Textiles, clothing and footwear

Paul Dunne
03 9244 8628

Mining

Bill Ghent
08 9430 1401

Petroleum

John Charleston
03 9244 8411

General Business

Jim Collins
07 3835 3282